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Traffic Laws Commentary

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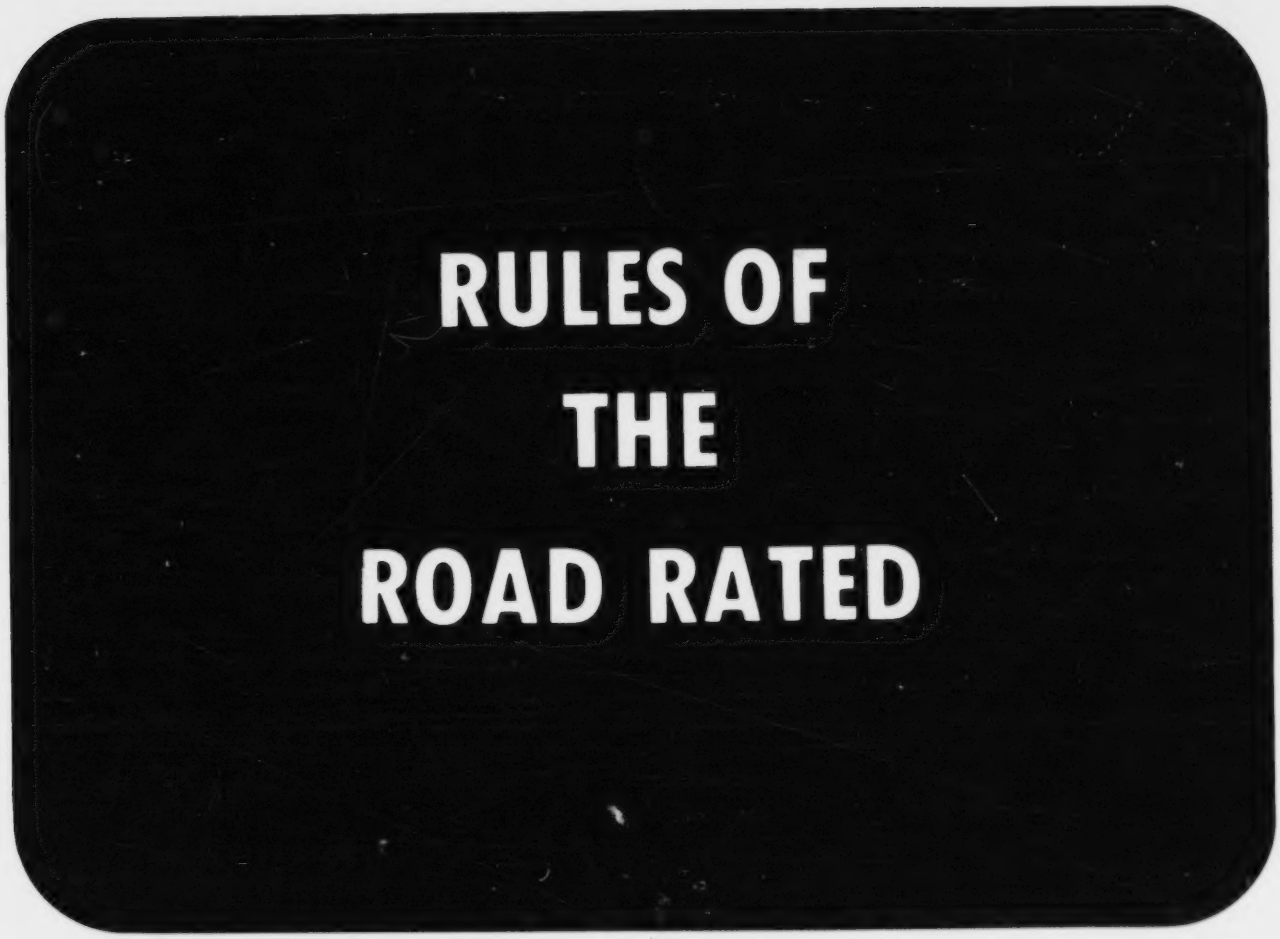

The Commentary series covers, on a selective basis, the development and status of state motor vehicle and traffic laws, particularly as they relate to provisions in the Uniform Vehicle Code.

TD 8.5/2:

Rules of the Road Rated

by

Edward F. Kearney

National Committee on Uniform Traffic Laws and Ordinances

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INTRODUCTION

This Commentary presents an annual rating of state traffic laws to show how they compare with the rules of the road part of the Uniform Vehicle Code as of January 1, 1979. Prior ratings were based on state traffic laws as they existed in 1968, 1971, 1972, 1973, 1974, 1975, 1976, and 1977.[1] This rating covers 1978 state traffic laws but does not include changes adopted by state legislatures in 1979. This rating also does not include changes in the Uniform Vehicle Code which were adopted by the National Committee on Uniform Traffic Laws and Ordinances when it met in August of 1979.

Traffic Laws Annotated[2] shows how state traffic laws compare with provisions in the "Rules of the Road" Chapter of the Uniform Vehicle Code[3] in over 150 "Statutory Annotations." Reading these Annotations would provide a general picture of the traffic laws in any one state. Any law that differs from a section in the Uniform Vehicle Code could also be detected by reading all the Annotations. This Commentary attempts to provide a more precise picture of the status of state traffic laws as of January 1, 1979 that will facilitate rapid identification of particular areas of a state's laws that may not be in substantial conformity with the Code, indicate areas of the statutory law where uniformity may be markedly poor on a nationwide basis, and identify states whose traffic laws may need substantial attention on a priority basis as part of contemporary efforts to improve highway safety. This document, when used with Traffic Laws Annotated, is particularly useful in determining which laws in any one state differ from provisions in the Uniform Vehicle Code (and from laws in other states).

Uniform rules of the highest quality are important for highway safety. Substantial improvement in such uniformity, and the termination of laws that are archaic or that cannot be reasonably expected to improve the safe and efficient use of our highways, are imperative and should occur as soon as possible.[4]

EXPLANATION OF TABLES

Each "Statutory Annotation" in Traffic Laws Annotated (TLA) was reviewed and state laws were rated in comparison with the Uniform Vehicle Code using the following numbers:

5 Law is in verbatim conformity with the Uniform Vehicle Code.
4 Law is virtually identical to the Code.
3 Law is clearly in substantial conformity with the Code.
2 Law is probably in substantial conformity with the Code.
1 Law could be in substantial conformity with the Code but such conformity is questionable.
0 State has no comparable law.
-1 Substantial conformity of law is not probable, but is possible.
-2 Law is probably not in substantial conformity with the Code.
-3 Law is substantially different from the Code.

Naturally, differences between laws and Code provisions that are unrelated to the rule expressed were not included in the application of the numerical ratings.

These numerical assessments have been arranged in tabular form in Appendix B. There are 13 tables -- one for each article in the "Rules of the Road" Chapter of the Code.[5] The names of fifty states, the District of Columbia, and the Commonwealth of Puerto Rico are listed in the margin and each column is headed by the particular section, subsection or principle in the Code that formed the basis for TLA's "Statutory Annotation." Occasionally, a figure shown in parentheses, such as (1) or (I), is also included to indicate which portion of a "Statutory Annotation" in Traffic Laws Annotated formed the basis for the figures in the column. In such instances, TLA should be consulted for further information.

The total points for each state in these 13 tables form the basis for the tabular summary in Appendix A.

CAVEAT VIATOR[6]

The above rating system and its application is not perfect and could be misleading for many reasons.

Reducing the law to numbers is a process of questionable value.

READEX FICHE

The rating system also fails to make distinctions based on relative importance among rules of the road. That is, a law duplicating the Code's rule against riding in house trailers and a law duplicating the Code provision on the duty of a driver making a left turn to yield to oncoming vehicles each receive equal treatment -- plus five points. Thus, if a state duplicates one rule but not the other, its total score would be five. Though all rules of the road are deemed necessary for highway safety by the National Committee, some contend that certain rules contribute more than others. Certainly, some rules do cover situations encountered more frequently by many people and, for that reason alone, may make a more significant contribution to highway safety -- particularly when they are reasonably uniform.

RANKING OF THE STATES

The list which appears below ranks the states according to the total points for each state shown in the Summary Table, infra, in Appendix A. In the event of a tie score, the states are arranged alphabetically. There are 213 colums in the 13 tables in Appendix B. If a state had laws in verbatim conformity (five points) with each point of comparison in the Code, it would have a total score of 1065. Because the highest score is 945 (Kansas), it is clear that no state traffic code duplicates every rule of the road in the Code as revised in 1975.

Rank	State	Points	Increase or Decrease Between 1977 and 1978
1	Kansas	945	0
2	Utah	864	+83
3	Idaho	848	0
4	North Dakota	845	0
5	Georgia	842	0
6	South Carolina	836	+38
7	Washington	815	0
8	Pennsylvania	793	0
9	Illinois	772	0
10	Colorado	757	0
11	Delaware	723	-4
12	Nebraska	722	0
13	Florida	717	0
14	Maryland	713	0
15	Hawaii	687	-4
16	Texas	667	0
17	New York	646	0

Rank	State	Points	Increase or Decrease Between 1977 and 1978
18	Vermont	643	0
19	New Hampshire	633	0
20	Wyoming	633	0
21	Oklahoma	624	0
22	New Mexico	608	+1
23	Alaska	606	0
24	Montana	602	0
25	Arizona	584	-5
26	Minnesota	574	+14
27	Rhode Island	565	0
28	Ohio	564	-4
29	Indiana	561	+55
30	Tennessee	553	+1
31	Louisiana	552	+36
32	West Virginia	537	0
33	Oregon	533	0
34	Nevada	514	0
35	South Dakota	464	0
36	District of Columbia	452	0
37	Kentucky	449	+164
38	California	444	0
39	Arkansas	435	0
40	Iowa	416	+14
41	Michigan	409	+3
42	Wisconsin	399	0
43	Connecticut	395	+50
44	Maine	392	0
45	Puerto Rico	391	0
46	Alabama	368	0
47	North Carolina	333	0
48	Mississippi	319	0
49	New Jersey	316	0
50	Virginia	313	0
51	Missouri	285	0
52	Massachusetts	253	0

In the above list, the scores in 11 states increased while the scores in four decreased. Thirty-seven scores did not change.

NUMBER OF SUBSTANTIAL DIFFERENCES

The 13 tables in Appendix B permit rapid identification of areas where state traffic laws differ from a rule in the Uniform Vehicle Code. These differences are shown by using minus numbers. One of the reasons why this rating was originally published (despite its many imperfections) was to facilitate the location, consideration of and, hopefully, the elimination of such differences. All one has to do is locate the minus numbers in the 13 tables in Appendix B and consult the Annotation in Traffic Laws Annotated indicated at the top of the column. Reading the Annotation in TLA will indicate how the laws with a minus score differ from a provision in the Uniform Vehicle Code. If one follows this procedure for a particular state, it does not take long to determine how the traffic laws in that state differ substantially from the Uniform Vehicle Code.

The number of substantial differences has been decreasing:

Rating for traffic laws adopted before	Number of substantial differences for all states
January 1, 1969	303
January 1, 1972	275
January 1, 1973	269
January 1, 1974	262
January 1, 1975	259
January 1, 1976	229
January 1, 1977	213
January 1, 1978	200
January 1, 1979	193

As indicated by the above figures, the number of laws which differ from the Uniform Vehicle Code has been steadily decreasing. Indeed, during the last ten years, substantial differences between state traffic laws and the Uniform Vehicle Code have decreased by over 35%.

An accompanying table shows the total number of substantial differences in each state based on each of the 13 Articles in UVC Chapter 11 on "Rules of the Road." This table reveals that almost 45% of nonuniformity among traffic laws involves Articles II and IV of the UVC which contain rules describing when drivers should yield the right of way to other drivers and rules on the meaning of green, yellow and red lights. These are important areas of our traffic laws that are encountered by most drivers many times each day.

Though all such substantial differences warrant consideration and reevaluation, it is possible that a few may be justified as being reasonably calculated to improve safe and efficient movement of traffic. However, this principle will not excuse the continuation of archaic, obsolete, nonuniform rules that cannot reasonably be found to provide such benefits, and the burden of justifying any differences rests with those advocating it.

Needless to say, this emphasis on substantial differences should not obscure the vastly larger number of instances where there is similarity. In the 213 columns in Appendix B, there are 11,076 points of comparison and these produced only 193 variances (in the 1970 rating there were 303 variances in 10,250 comparisons) or fewer than 1.7% of the comparisons yielded a substantial difference.

Table Showing Number of Substantial Variances in Each State From a Rule of the Road in the Uniform Vehicle Code as of January 1, 1979

Articles in Chapter 11 of the Uniform Vehicle Code

Name of State	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII	Total
Ala.	1	2	1					1						5
Alaska				1										1
Ariz.				1			1	1						3
Ark.		2		2	1			1						6
Cal.				1				1						2
Colo.	1			1	1			1						4
Conn.		1	1	1	1		1	2					1	8
Del.		1		2	1									4
Fla.				2										2
Ga.														0
Hawaii					1									1
Idaho			1	1			1							3
Ill.			2	1			1							4
Ind.		3		2			1		1					7
Iowa		3	1	1	1		2		1					9
Kan.														0
Ky.							1		1					2
La.			1				1							2
Me.				1	1		1	1					1	5
Md.			1				1		1					3
Mass.		3	2	2		1		1						9
Mich.		3	2				1	1						7
Minn.					1			1						2
Miss.		3	1	3										7
Mo.			3	2			3		1			1		10
Mont.		1		1										2
Neb.		1		1			2							4
Nev.	1		1	1	1									4
N.H.	1			2				1						4
N.J.		2	1	5	1									9
N.M.				1			1							2
N.Y.	1			1										2
N.C.			1				1							2
N.D.														0
Ohio							2	1					1	4
Okla.											1			1
Ore.		1		1			1	1						4
Pa.														0
R.I.		2		1				1						4
S.C.							2							2
S.D.	1	2	2		1									6
Tenn.	1	2		1										4
Tex.	1						1	1						3
Utah			1					1						2
Vt.				1	1								1	3
Va.		1			1		1						1	4
Wash.														0
W.Va.	1	2		1			1							5
Wis.		2		1	1		1							5
Wyo.		1	1	1	1		1							5
D.C.		2		1			1							4
P.R.		2												2
Totals	9	42	23	44	15	1	30	17	5	0	1	1	5	193

SUMMARY OF 1978 CHANGES IN STATE TRAFFIC LAWS

Six states (Connecticut, Indiana, Kentucky, Louisiana, South Carolina and Utah) made significant progress toward uniform traffic laws in 1978. Kentucky eliminated five substantial differences with the Uniform Vehicle Code and Louisiana repealed two. Because most of these differences involved rules dealing with right of way and the meaning of traffic-control signals, these changes are very significant.

But the most significant single improvement in traffic laws in 1979 has to be Connecticut's adoption of the rule requiring drivers to yield to pedestrians in crosswalks. Indiana, Kentucky, and Utah also improved laws specifying rights and duties for pedestrians based on the Uniform Vehicle Code provisions.

The Uniform Vehicle Code rule limiting the use of alternately flashing red lights on school buses to situations where the bus has stopped still has not gained universal acceptance. While Idaho approved this rule in 1978, South Carolina adopted a law allowing the lights to be used when a school bus is stopped or preparing to stop.

As to the few states whose total scores decreased in 1978, the decline is attributable to the repeal of laws requiring all motorcyclists to wear helmets.

Though only 15 states amended their traffic laws in 1978, it was an outstanding year for good, uniform state vehicle codes because of the substantial nature of the improvements. Whoever is responsible for the recent modernization of the rules of the road in Kentucky, South Carolina and Utah deserves an expression of appreciation from all people who drive or walk on our highways.

OBSERVATIONS

One of the principal reasons for publication of the previous ratings was to stimulate consideration and elimination of major differences between state laws and the Code. Though many states made significant advances toward uniformity during 1969-1978, 193 substantial differences still remain. Particularly in view of the fact that almost 45% of these differences involve traffic control devices and right of way, this number is too high. All substantial differences should be eliminated on a priority basis by each state as soon as possible unless the difference can be clearly justified as improving safe and efficient movement of traffic.

Another disappointment is the failure of 13 states with total scores of less than 426 to make greater progress toward uniformity.1/ Not only are the total scores in these 13 states low, but these states account for a large percentage of all substantial differences. Eight encouraging developments in this regard were significant changes in the laws of Kentucky, Maryland, Nebraska, Ohio, Oregon, Pennsylvania, South Dakota and Vermont resulting in their moving up from the last 13 states in the rankings during 1969-1978. Most states with low scores are located in the eastern half of the United States.

Legislators in states with scores of less than 426 should be informed that their laws appear to be nonuniform, obsolete and in need of modernization based upon the most recent edition of the Uniform Vehicle Code. Legislators in these states probably do not know about the condition of their traffic laws and cannot be expected to take action without knowledge of the problem.

FOOTNOTES

1/ "Rules of the Road Rated," Traffic Laws Commentary No. 70-6 (July 1, 1970, 15 pages). Copies can be obtained for $3.00 from the National Committee on Uniform Traffic Laws and Ordinances, Suite 430, 1776 Massachusetts Avenue, N.W., Washington, D.C. 20036. This rating was based upon state traffic laws adopted prior to January 1, 1969.

"Rules of the Road Rated," Traffic Laws Commentary, volume 1, number 2 (August, 1972, 10 pages). Copies can be obtained from the United States Government Printing Office for $.40 (Stock No. 5003-00079). This rating was based upon state traffic laws adopted prior to January 1, 1972.

"Rules of the Road Rated," Traffic Laws Commentary, volume 2, number 1 (August, 1973, 11 pages). Copies can be obtained from the United States Government Printing Office for $.65 (Stock No. 5003-00134). This rating was based on state traffic laws adopted before January 1, 1973.

"Rules of the Road Rated," Traffic Laws Commentary, volume 3, number 1 (August, 1974, 11 pages). Copies can be obtained from the United States Government Printing Office for $.70 (Stock No. 5003-00175). This rating was based on state traffic laws adopted before January 1, 1974.

"Rules of the Road Rated," Traffic Laws Commentary, volume 4, number 1 (May, 1975, 33 pages). Copies can be obtained from the United States Government Printing Office for $.85 (Stock No. 050-003-00218-6). This rating was based on state traffic laws adopted before January 1, 1975.

"Rules of the Road Rated," Traffic Laws Commentary, volume 5, number 1 (September, 1976, 11 pages). Copies can be obtained from the United States Government Printing Office for $.85 (Stock No. 050-003-00231-3). This rating was based on state traffic laws adopted before January 1, 1976.

"Rules of the Road Rated," Traffic Laws Commentary, volume 6, number 5 (October, 1977, 31 pages). Copies can be obtained from the United States Government Printing Office for $1.40 (Stock No. 050-003-00299-2). This rating was based on state traffic laws adopted before January 1, 1977.

"Rules of the Road Rated," based on state traffic laws as of January 1, 1978, was delivered to the National Highway Traffic Safety Administration on October 17, 1979 and will soon be available from the United States Government Printing Office.

2/ Traffic Laws Annotated (1972, 851 pages) annotates Chapters 1, 10, 11, and 15 of the Uniform Vehicle Code relating to definitions, accidents, rules of the road, scope of traffic ordinances and uniformity among traffic-control devices. This book replaces Uniform Vehicle Code: Rules of the Road with Statutory Annotations (1967, and 1970 Annual Supplement). Traffic Laws Annotated includes state laws adopted or amended prior to January 1, 1972, and reflects all changes made in the Uniform Vehicle Code in 1971. A "1977 Annual Supplement" updates TLA through January 1, 1977 by showing how 1972, 1973, 1974, 1975 and 1976 amendments in state traffic laws changed the annotations in the main volume. It also includes changes made in the Uniform Vehicle Code in July of 1975.

Because the "1977 Annual Supplement" was so thick, the NCUTLO Staff is in the process of preparing a new edition of Traffic Laws Annotated. When published by the United States Government Printing Office, it will reflect state laws as of January 1, 1979. Thus, the new TLA will include changes in state laws that were adopted in 1977 and 1978. This Commentary was prepared using the manuscript for the new edition of TLA.

3/ The Uniform Vehicle Code (1968 and Supp. II 1976) is revised and published periodically by the National Committee on Uniform Traffic Laws and Ordinances, 1776 Massachusetts Avenue, N.W., Washington, D.C. A new supplement including changes in the UVC adopted by the National Committee in August, 1979 is available.

The Uniform Vehicle Code is designed for adoption by each state legislature. It contains 19 chapters, some of which deal with registration of vehicles, licensing drivers, financial responsibility, accidents, vehicular equipment requirements, and, of course, rules of the road.

4/ The author and person exclusively responsible for the preparation of all portions of this Commentary is Edward F. Kearney, Executive Director of the National Committee on Uniform Traffic Laws and Ordinances since May 25, 1967, and its Director of Research for four years prior to that time.

5/ A table for Article XIV on "Streetcars" is not included.

6/ This Latin phrase means, "Let the wayfarer beware."

7/ The significance of a score of 426 is this: If a state had a law that probably is in substantial conformity with the Code (two points) in each of the 213 colums in the tables in Appendix B, it would have a total score of 426. In other words, if a state conforms substantially with each rule of the road in the Code, it would have a total score of at least 426.

APPENDIX A -- SUMMARY TABLE

Note: This Table contains the total scores shown in the 13 tables in Appendix B.

	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII	Total
UVC	50	120	180	65	125	70	65	65	45	45	95	70	70	1065
Ala.	13	34	66	20	62	39	11	18	8	7	48	35	7	368
Alaska	36	95	149	29	59	44	47	23	11	22	33	27	31	606
Ariz.	41	84	117	30	62	39	37	40	18	26	44	30	16	584
Ark.	29	37	91	23	40	40	38	37	20	18	48	1	13	435
Cal.	36	54	96	18	49	30	33	23	27	19	36	15	8	444
Colo.	28	111	161	43	81	59	46	27	25	25	71	28	52	757
Conn.	20	53	65	22	63	36	16	7	16	12	32	33	20	395
Del.	43	81	147	37	91	51	47	38	26	31	67	31	33	723
Fla.	34	101	153	33	80	52	39	29	15	22	61	33	65	717
Ga.	41	94	165	64	111	52	47	43	30	41	55	31	68	842
Hawaii	38	100	172	46	84	51	39	13	18	4	48	21	53	687
Idaho	34	108	166	48	123	69	56	49	22	38	89	35	11	848
Ill.	42	91	146	40	120	44	44	42	25	44	82	14	38	772
Ind.	45	36	110	14	119	34	21	39	10	16	46	25	46	561
Iowa	30	34	90	35	33	28	15	25	12	12	46	1	55	416
Kan.	49	103	173	65	123	58	60	60	27	44	87	35	61	945
Ky.	19	60	65	48	101	49	14	19	14	11	29	1	19	449
La.	35	73	103	42	63	38	33	23	10	17	32	25	58	552
Me.	7	77	81	11	51	37	25	25	13	10	29	13	13	392
Md.	40	99	136	41	83	48	34	34	27	23	54	27	67	713
Mass.	11	20	36	27	29	11	24	6	13	10	27	24	15	253
Mich.	25	42	101	22	8	19	25	25	16	13	44	38	31	409
Minn.	28	104	103	33	52	31	29	25	17	13	49	31	59	574
Miss.	32	21	84	9	41	30	16	15	12	11	42	1	5	319
Mo.	15	96	55	26	2	24	16	12	15	2	8	9	5	285
Mont.	41	60	123	27	67	44	48	39	26	18	54	21	34	602
Neb.	34	89	144	40	98	54	26	51	21	25	59	25	56	722
Nev.	30	78	80	20	54	28	36	19	18	20	54	35	42	514
N.H.	33	106	133	33	70	49	41	36	10	20	50	24	28	633
N.J.	17	32	56	-3	47	24	31	16	13	11	24	23	25	316
N.M.	46	69	126	34	70	39	42	39	20	18	57	33	15	608
N.Y.	31	92	132	36	77	46	30	20	13	21	61	27	60	646
N.C.	22	26	74	28	56	20	21	21	18	10	19	2	16	333
N.D.	36	99	167	59	113	62	51	48	15	29	71	35	60	845
Ohio	12	82	110	47	98	47	27	16	17	15	53	20	20	564
Okla.	42	81	142	36	76	44	41	35	14	18	44	35	16	624
Ore.	21	71	102	30	68	39	38	13	19	25	37	26	44	533
Pa.	33	96	147	49	90	60	57	48	24	30	65	37	57	793
R.I.	41	47	101	37	71	44	41	23	14	17	43	66	20	565
S.C.	49	93	176	64	122	69	27	52	16	18	57	28	65	836
S.D.	20	59	88	36	15	30	32	32	23	27	49	2	51	464
Tenn.	39	55	115	23	66	37	39	24	14	17	42	35	47	553
Tex.	42	91	133	45	75	50	35	35	21	27	67	38	8	667
Utah	35	103	156	62	114	62	42	28	35	40	79	57	51	864
Vt.	20	92	143	46	62	35	41	17	29	26	58	29	45	643
Va.	15	31	61	27	21	24	22	27	12	12	31	14	16	313
Wash.	48	107	162	58	91	68	50	31	22	34	65	34	45	815
W.Va.	40	51	110	20	58	39	42	34	25	18	45	35	20	537
Wis.	33	39	77	25	25	32	33	18	13	19	29	23	33	399
Wyo.	46	62	111	36	60	43	50	48	22	18	47	35	55	633
D.C.	31	59	95	23	54	47	16	17	9	10	49	25	17	452
P.R.	7	54	76	26	38	32	13	26	9	18	36	16	40	391

APPENDIX B -- TABLES FOR EACH ARTICLE IN UVC CHAPTER 11

ON "RULES OF THE ROAD"

Table I -- Obedience to and Effect of Traffic Laws

	§ 11-101(1)	§ 11-101(2)	§ 11-102	§ 11-103	§ 11-104	§ 11-105	§ 11-106(a)	§ 11-106(b)	§ 11-106(c)	§ 11-106(d)	Total
UVC	5	5	5	5	5	5	5	5	5	5	50
Ala.	0	-3	0	4	5	0	1	0	1	5	13
Alaska	3	2	2	4	3	2	5	5	5	5	36
Ariz.	5	5	0	4	5	2	5	5	5	5	41
Ark.	5	1	5	4	4	2	1	1	1	5	29
Cal.	5	3	2	4	2	2	5	5	3	5	36
Colo.	5	5	4	4	-2	1	2	1	3	5	28
Conn.	0	1	0	1	1	2	0	5	5	5	20
Del.	5	5	5	3	5	4	5	5	1	5	43
Fla.	2	1	2	4	5	4	5	5	1	5	34
Ga.	4	5	5	4	5	4	4	5	3	2	41
Hawaii	5	0	5	4	5	2	5	5	2	5	38
Idaho	5	0	2	5	5	2	5	4	1	5	34
Ill.	5	5	5	4	4	3	5	5	1	5	42
Ind.	5	4	5	4	5	2	5	5	5	5	45
Iowa	5	3	3	4	4	2	1	2	1	5	30
Kan.	5	5	5	4	5	5	5	5	5	5	49
Ky.	0	1	0	0	0	0	5	5	3	5	19
La.	3	3	0	2	5	2	5	5	5	5	35
Me.	1	2	0	1	0	2	0	0	1	0	7
Md.	5	3	2	4	5	3	5	5	5	3	40
Mass.	0	1	0	3	0	3	1	1	1	1	11
Mich.	5	1	0	3	5	2	2	5	1	1	25
Minn.	4	4	2	5	5	2	2	2	1	1	28
Miss.	5	5	5	4	4	2	0	1	1	5	32
Mo.	0	2	3	2	0	0	0	5	3	0	15
Mont.	5	5	5	3	1	2	5	5	5	5	41
Neb.	5	2	2	2	5	2	5	4	2	5	34
Nev.	2	1	5	4	-3	3	5	5	3	5	30
N.H.	5	-2	2	4	5	2	5	5	2	5	33
N.J.	2	2	0	3	5	2	1	1	1	0	17
N.M.	5	5	5	4	5	2	5	5	5	5	46
N.Y.	3	-1	2	3	5	3	5	5	1	5	31
N.C.	0	2	0	4	5	3	1	1	1	5	22
N.D.	5	2	2	4	5	5	2	5	1	5	36
Ohio	0	2	0	2	1	2	1	1	2	1	12
Okla.	5	1	5	4	5	2	5	5	5	5	42
Ore.	5	2	0	2	1	2	2	2	2	3	21
Pa.	5	-1	0	3	5	5	5	2	4	5	33
R.I.	5	3	2	4	5	2	5	5	5	5	41
S.C.	5	5	5	5	4	5	5	5	5	5	49
S.D.	0	-1	0	0	1	2	5	5	3	5	20
Tenn.	5	-2	5	4	5	2	5	5	5	5	39
Tex.	5	-1	5	4	5	4	5	5	5	5	42
Utah	5	5	5	4	2	2	5	1	3	3	35
Vt.	2	2	2	2	2	2	1	1	1	5	20
Va.	0	2	0	1	2	1	2	2	3	2	15
Wash.	5	5	5	4	5	4	5	5	5	5	48
W.Va.	5	-3	5	4	5	4	5	5	5	5	40
Wis.	5	2	0	2	4	2	5	5	3	5	33
Wyo.	5	5	5	4	5	2	5	5	5	5	46
D.C.	0	2	5	3	5	2	5	2	2	5	31
P.R.	0	0	0	0	0	0	2	2	1	2	7

Table II -- Traffic Control Devices

	§ 11-201(a)	§ 11-201(b)	§ 11-201(c)	§ 11-201(d)	§ 11-202	§ 11-202(a)1	§ 11-202(a)2	§ 11-202(a)3	§ 11-202(b)1	§ 11-202(b)2	§ 11-202(c)1	§ 11-202(c)2	§ 11-202(c)3	§ 11-202(c)4	§ 11-202(d)	§ 11-203	§ 11-204(a)	§ 11-204(b)	§ 11-402.1	§ 11-205(a)	§ 11-205(b)	§ 11-205(c)	§ 11-205(d)	§ 11-206	Total
UVC	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	120
Ala.	4	4	0	0	2	5	1	1	1	-2	2	0	1	-2	5	1	3	0	0	2	3	0	0	3	34
Alaska	4	4	4	4	5	5	5	5	4	5	2	0	5	5	2	4	3	5	2	5	3	5	5	4	95
Ariz.	4	4	0	0	5	5	5	5	4	5	4	0	5	5	5	4	3	0	0	5	3	5	5	3	84
Ark.	3	0	0	0	2	5	1	1	1	-2	2	0	1	-2	5	2	1	0	0	5	3	2	5	2	37
Cal.	2	0	4	4	2	5	2	1	5	5	2	0	5	5	0	1	3	0	0	2	0	0	3	3	54
Colo.	5	5	4	4	5	5	5	5	5	5	5	2	5	5	5	3	3	5	5	5	5	5	5	5	111
Conn.	0	0	0	0	5	3	5	1	-2	5	2	0	3	5	5	4	3	0	2	4	3	0	3	2	53
Del.	4	4	4	4	5	4	2	2	3	5	1	0	1	-2	5	3	4	5	4	5	3	5	5	5	81
Fla.	4	5	4	4	5	5	5	5	4	5	2	0	5	5	5	4	4	5	4	5	3	5	5	3	101
Ga.	4	5	4	4	2	4	4	5	4	5	4	2	3	5	5	5	4	0	4	5	3	5	5	3	94
Hawaii	4	4	4	4	5	5	5	5	4	5	4	0	3	5	5	4	4	5	4	5	3	5	5	3	100
Idaho	5	5	5	5	2	5	5	5	5	5	3	1	4	5	5	5	5	5	5	5	3	5	5	5	108
Ill.	4	5	4	4	5	1	2	3	4	3	4	0	5	5	5	4	4	5	5	3	3	5	5	3	91
Ind.	3	0	1	1	2	1	1	1	-2	-2	4	0	5	-2	0	1	1	0	0	5	3	5	5	3	36
Iowa	4	0	0	0	2	1	1	0	-2	-2	4	0	3	-2	0	4	2	2	0	2	3	5	5	2	34
Kan.	4	5	4	4	5	5	5	5	4	5	4	0	4	5	5	4	5	5	4	5	3	5	5	3	103
Ky.	4	0	0	0	5	5	5	5	4	5	2	0	3	5	5	0	4	5	0	2	0	0	0	1	60
La.	4	4	0	0	5	5	5	5	1	5	5	5	4	5	5	4	3	5	0	1	0	0	0	2	73
Me.	0	0	0	0	5	5	5	5	4	5	2	3	3	5	5	4	3	5	4	4	3	4	1	2	77
Md.	4	5	4	4	5	5	5	5	4	5	4	0	3	5	5	2	4	5	4	5	3	5	5	3	99
Mass.	2	0	0	0	5	2	-1	1	-2	3	-1	0	0	5	0	1	1	0	2	0	0	0	0	2	20
Mich.	3	0	0	0	5	5	5	1	-2	-2	2	0	4	-2	5	4	1	0	0	2	3	0	5	3	42
Minn.	4	5	4	4	5	5	5	5	5	5	3	2	4	5	5	4	3	5	5	5	3	5	5	3	104
Miss.	3	0	0	0	2	1	1	1	-2	-2	1	0	3	-2	0	0	1	0	0	5	3	2	1	3	21
Mo.	4	5	4	4	5	5	5	5	4	5	2	0	3	5	5	4	4	5	4	5	3	5	2	3	96
Mont.	4	4	0	0	2	5	1	1	1	-2	2	0	4	2	5	2	3	5	0	5	3	5	5	3	60
Neb.	4	5	4	4	5	5	5	5	-2	2	4	0	4	5	5	4	4	5	2	3	3	5	5	3	89
Nev.	3	5	2	4	5	5	2	3	3	1	2	0	5	4	5	1	0	5	2	5	3	5	5	3	78
N.H.	4	4	4	4	5	5	5	5	5	5	5	3	5	5	5	4	3	5	4	5	3	5	5	3	106
N.J.	3	0	0	0	5	-1	1	2	-2	2	1	0	3	3	0	1	1	0	0	2	3	5	1	2	32
N.M.	4	4	0	0	5	5	1	1	2	5	2	0	2	5	5	4	3	5	0	5	3	0	5	3	69
N.Y.	3	4	4	4	5	4	3	5	4	5	4	2	1	5	5	4	4	5	5	5	3	0	5	3	92
N.C.	0	0	0	0	2	1	0	0	2	0	2	0	3	0	2	4	2	1	0	2	4	0	0	1	26
N.D.	4	5	4	4	5	5	5	5	4	5	4	0	4	5	5	4	5	5	0	5	3	5	5	3	99
Ohio	3	3	0	0	5	5	5	5	4	5	4	0	4	5	0	1	5	5	5	5	3	5	2	3	82
Okla.	4	4	0	0	5	5	5	5	5	5	2	0	4	3	5	2	3	5	0	5	1	5	5	3	81
Ore.	3	3	4	4	4	4	2	1	-2	5	3	0	5	5	4	2	3	3	2	3	3	3	4	3	71
Pa.	5	5	5	5	5	5	4	2	4	4	4	0	3	4	5	3	2	5	5	4	5	5	2	5	96
R.I.	4	4	0	0	2	5	1	1	1	-2	2	0	2	-2	5	2	3	0	0	5	1	5	5	3	47
S.C.	5	5	5	5	5	5	5	5	5	5	5	5	3	5	0	1	3	0	0	5	3	5	5	3	93
S.D.	4	4	0	0	2	5	1	1	2	-2	2	0	3	-2	5	4	3	5	4	5	3	5	2	3	59
Tenn.	4	4	0	0	2	5	1	1	1	-2	2	0	3	-2	5	2	3	5	0	5	3	5	5	3	55
Tex.	4	5	0	0	5	5	5	5	4	5	2	0	5	5	5	2	4	5	4	5	3	5	5	3	91
Utah	4	5	4	4	5	5	5	5	4	5	4	0	4	5	5	4	5	5	4	5	3	5	5	3	103
Vt.	3	4	4	4	5	5	5	4	4	5	2	0	3	5	5	4	3	5	4	4	3	4	4	3	92
Va.	1	3	0	0	5	1	1	0	1	0	-1	0	1	0	0	4	1	2	5	2	3	0	1	1	31
Wash.	3	5	4	4	5	5	5	4	5	5	4	4	5	5	4	4	5	5	5	3	5	5	5	3	107
W.Va.	4	4	0	0	2	5	1	1	1	-2	2	0	5	-2	5	1	3	0	0	5	3	5	5	3	51
Wis.	2	0	0	0	5	5	2	1	-2	2	2	0	4	-2	5	2	2	0	2	3	3	0	1	2	39
Wyo.	4	4	0	0	2	5	1	1	1	-2	2	0	3	5	5	2	3	5	0	5	3	5	5	3	62
D.C.	3	4	0	0	2	5	3	2	-2	-2	2	2	0	5	5	2	2	0	5	5	3	5	5	3	59
P.R.	2	2	3	3	4	4	3	2	-2	4	2	3	-3	4	0	2	2	5	4	3	0	0	5	2	54

Table III - Driving on Right Side of Roadway - Overtaking & Passing - Use of Roadway

	§ 11-301(a)	§ 11-301(a)1	§ 11-301(a)2	§ 11-301(a)3	§ 11-301(a)4	§ 11-301(b)	§ 11-301(c)	§ 11-302	§ 11-303(a)	§ 11-303(b)	§ 11-304(a)1	§ 11-304(a)2	§ 11-304(b)	§ 11-305	§ 11-306(a)	§ 11-306(a)1	§ 11-306(a)2	§ 11-306(a)3	§ 11-306(b)
UVC	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5
Ala.	1	2	2	0	2	-2	0	3	1	1	5	3	5	0	3	1	2	0	0
Alaska	5	5	5	5	5	1	1	5	5	5	5	3	2	5	5	5	2	5	4
Ariz.	5	5	1	5	4	5	0	5	4	4	5	3	5	3	2	2	2	5	4
Ark.	5	5	1	5	4	0	0	5	5	5	5	3	5	3	2	2	2	5	4
Cal.	5	5	1	0	4	4	1	3	3	4	5	1	5	1	5	5	2	5	5
Colo.	5	5	5	5	4	5	4	5	5	5	5	1	5	5	5	5	2	5	5
Conn.	1	2	2	-2	2	2	0	5	1	4	3	1	5	1	2	2	2	0	4
Del.	5	5	5	5	4	5	5	5	5	5	5	2	2	2	5	5	5	5	5
Fla.	5	5	5	5	4	5	5	5	5	4	5	5	5	2	2	2	2	5	4
Ga.	5	5	5	5	5	5	5	5	5	4	5	4	5	5	5	5	2	5	5
Hawaii	5	5	5	5	5	5	5	5	5	5	5	3	5	5	5	5	2	5	5
Idaho	4	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	2	5	5
Ill.	5	5	5	5	4	5	5	5	5	5	4	4	5	5	5	5	2	5	-1
Ind.	5	5	1	5	4	5	0	5	5	5	5	5	5	3	2	2	2	5	4
Iowa	5	5	5	5	5	5	5	2	5	5	5	-2	3	3	2	1	2	1	0
Kan.	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	2	5
Ky.	1	1	2	0	0	1	0	3	1	1	5	5	2	3	5	5	2	5	5
La.	5	5	1	0	4	-1	3	5	4	5	5	2	3	2	2	2	2	5	5
Me.	0	0	0	0	0	1	0	1	3	5	5	3	5	3	2	2	2	5	4
Md.	5	5	5	5	4	-1	4	5	2	5	5	3	5	5	2	2	2	5	4
Mass.	1	1	2	0	0	-2	0	1	2	5	3	1	3	0	3	1	-1	0	0
Mich.	5	5	4	5	0	-2	3	3	-1	5	5	2	5	1	2	2	0	5	4
Minn.	5	5	1	5	4	5	0	5	5	5	5	3	5	3	2	1	2	1	4
Miss.	5	5	1	5	4	5	0	5	5	5	5	-2	3	3	2	2	2	1	0
Mo.	5	5	1	0	4	-2	0	3	1	5	5	-2	5	1	2	2	2	5	0
Mont.	5	5	1	5	4	5	0	5	5	5	5	3	5	3	2	2	2	5	4
Neb.	5	5	5	5	5	5	5	3	1	2	3	3	5	3	2	2	2	5	5
Nev.	2	3	1	3	3	-2	0	4	1	3	1	1	2	1	2	2	2	5	4
N.H.	5	5	5	5	4	5	3	5	5	5	5	1	0	5	2	2	2	5	4
N.J.	1	2	2	0	2	1	0	3	1	1	5	0	5	1	2	1	1	0	2
N.M.	5	5	1	5	4	5	0	5	5	5	5	3	5	3	2	2	2	5	4
N.Y.	5	5	5	5	5	5	3	5	5	5	5	3	5	5	2	2	0	5	4
N.C.	2	5	5	2	2	2	2	3	1	5	-2	1	0	1	2	1	2	0	2
N.D.	5	5	5	5	5	4	5	5	5	5	5	5	5	5	2	5	2	5	4
Ohio	5	5	5	5	4	4	2	4	1	4	5	5	5	4	5	2	2	5	3
Okla.	5	5	5	5	5	5	5	5	5	5	5	3	5	3	5	5	5	5	5
Ore.	3	5	4	5	5	2	4	4	2	1	2	5	1	2	3	3	2	0	2
Pa.	5	3	4	2	5	5	5	3	3	4	5	5	5	5	5	5	5	5	5
R.I.	5	5	1	5	4	5	0	5	1	5	5	1	5	3	2	2	2	5	4
S.C.	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	2	5	5
S.D.	-1	2	2	0	2	-2	0	3	2	4	5	3	2	1	5	5	2	5	4
Tenn.	5	5	1	5	4	5	0	5	5	5	5	3	5	3	2	1	2	5	4
Tex.	5	5	1	5	4	5	5	5	5	5	5	3	5	5	2	0	2	1	4
Utah	5	5	5	5	4	5	0	5	5	5	5	5	4	5	5	5	2	5	5
Vt.	5	5	5	5	5	5	4	5	2	5	5	3	2	5	5	4	2	5	5
Va.	1	2	2	0	2	1	0	3	1	5	1	3	5	1	3	3	1	0	1
Wash.	5	5	5	5	5	1	5	5	5	5	5	5	5	5	5	5	2	5	5
W.Va.	5	5	1	5	4	5	0	5	1	5	5	3	5	3	2	2	2	5	4
Wis.	4	2	2	3	4	5	2	5	1	5	5	4	5	1	4	2	1	0	0
Wyo.	5	5	1	5	4	1	0	5	5	5	5	3	5	3	2	2	2	5	4
D.C.	5	5	1	5	4	5	0	5	5	5	5	3	5	2	2	2	2	1	4
P.R.	2	0	1	0	0	2	3	0	2	1	5	2	5	3	2	2	0	0	4

Table III -- Continued

	§ 11-307(a)	§ 11-307(b)	§ 11-307(c)	§ 11-308(a)	§ 11-308(b)	§ 11-308(c)	§ 11-309	§ 11-309(a)	§ 11-309(b)	§ 11-309(c)	§ 11-309(d)	§ 11-310(a)	§ 11-310(b)	§ 11-310(c)	§ 11-311	§ 11-312	§ 11-313	Total
UVC	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	180
Ala.	4	0	0	2	2	5	5	4	2	2	0	4	1	0	1	4	1	66
Alaska	4	4	3	5	4	5	5	5	4	5	5	4	2	5	5	3	3	149
Ariz.	4	0	0	2	2	5	5	5	2	2	0	4	5	5	1	5	1	117
Ark.	1	2	0	0	2	5	5	4	0	1	0	4	1	0	0	0	0	91
Cal.	2	1	1	5	5	0	2	4	2	2	0	2	1	1	1	1	2	96
Colo.	3	5	3	4	4	5	5	5	4	5	5	4	5	5	3	5	5	161
Conn.	2	0	0	2	1	2	2	5	0	4	0	3	1	2	1	3	0	65
Del.	4	5	5	2	3	5	5	5	2	3	4	4	2	2	4	5	2	147
Fla.	4	5	5	5	5	5	5	5	4	5	5	4	1	5	1	4	2	153
Ga.	4	5	5	5	5	5	5	5	2	5	5	4	2	5	4	5	5	165
Hawaii	4	5	5	5	5	5	5	5	4	5	5	4	5	5	5	5	5	172
Idaho	5	-3	5	5	5	0	5	5	5	5	5	5	5	5	5	5	5	166
Ill.	4	-3	3	5	5	5	5	5	4	5	5	4	5	5	1	3	2	146
Ind.	2	0	0	2	2	5	2	5	2	1	0	4	1	5	1	4	1	110
Iowa	1	2	0	0	2	5	2	4	2	1	0	4	1	1	0	2	1	90
Kan.	5	5	5	5	5	5	5	5	4	5	5	4	5	5	5	3	5	173
Ky.	4	0	0	0	0	0	2	5	2	1	0	2	1	0	1	0	0	65
La.	4	5	0	2	2	5	5	5	0	1	0	4	1	5	1	3	1	103
Me.	0	0	0	0	2	5	5	4	4	2	5	4	2	1	1	4	1	81
Md.	4	5	2	2	2	5	5	4	4	4	4	4	5	5	4	3	2	136
Mass.	1	1	0	1	1	1	2	2	0	0	0	2	1	0	2	0	2	36
Mich.	2	0	0	2	2	5	5	5	4	5	5	4	2	0	1	4	2	101
Minn.	2	2	0	0	2	5	5	5	2	1	0	4	1	0	2	3	3	103
Miss.	1	2	0	0	2	5	2	5	2	1	0	4	1	0	1	0	2	84
Mo.	0	0	0	0	0	0	2	5	2	2	0	-2	1	2	1	0	0	55
Mont.	4	5	0	2	2	5	5	5	2	2	0	4	4	5	1	5	1	123
Neb.	4	5	5	5	3	5	5	5	4	5	5	4	3	5	3	5	2	144
Nev.	3	3	5	0	2	5	5	5	2	0	0	5	1	2	1	2	1	80
N.H.	1	1	1	2	2	5	5	5	4	5	5	4	5	5	5	5	0	133
N.J.	1	2	1	2	2	0	2	5	1	-1	0	3	1	0	1	4	2	56
N.M.	5	5	5	2	2	5	5	5	2	2	0	4	1	1	1	5	5	126
N.Y.	0	2	3	0	2	4	5	5	4	3	3	4	5	5	5	2	1	132
N.C.	2	0	2	2	2	0	4	5	4	4	4	4	2	0	1	2	0	74
N.D.	5	5	5	5	5	5	5	5	4	5	5	4	5	5	5	5	2	167
Ohio	2	0	0	2	2	5	3	1	2	1	5	2	2	3	1	2	2	110
Okla.	4	5	0	2	2	5	5	5	2	2	0	4	2	2	5	5	1	142
Ore.	3	3	3	5	2	5	2	5	3	1	0	5	3	3	2	0	2	102
Pa.	3	3	3	5	5	5	5	5	3	2	0	4	3	4	3	5	5	147
R.I.	4	0	0	2	2	5	5	5	2	2	0	2	1	0	1	4	1	101
S.C.	5	5	5	5	5	5	5	5	5	5	5	4	5	5	5	5	5	176
S.D.	4	5	0	0	0	0	5	5	2	2	0	4	5	5	1	5	1	88
Tenn.	4	0	0	2	2	5	5	5	2	2	0	4	2	5	1	5	1	115
Tex.	4	5	4	2	2	5	5	4	4	2	5	1	5	5	3	4	1	133
Utah	5	5	5	5	5	5	5	5	5	5	0	5	2	5	-1	5	5	156
Vt.	1	1	5	2	2	5	5	4	4	5	5	5	1	2	4	5	5	143
Va.	0	1	1	2	2	5	2	5	1	2	0	2	1	0	0	0	2	61
Wash.	4	5	5	5	5	5	5	5	4	5	5	4	5	5	2	4	1	162
W.Va.	4	0	0	2	2	5	5	5	2	2	0	4	1	4	1	5	1	110
Wis.	2	2	0	2	0	0	2	1	3	1	0	4	1	0	1	2	1	77
Wyo.	4	-3	0	2	2	5	5	5	2	2	0	4	4	5	1	5	1	111
D.C.	0	0	0	0	2	5	5	5	0	2	0	4	0	0	1	5	0	95
P.R.	2	2	0	3	3	3	2	2	3	2	3	2	2	3	3	3	4	76

Table IV -- Right of Way

	§ 11-401(a)	§ 11-401(b)	§ 11-402	§ 11-403(a)	§ 11-403(b)I	§ 11-403(b)II	§ 11-403(c)I	§ 11-403(c)II	§ 11-404	§ 11-405(a)	§ 11-405(a)1	§ 11-405(b)	§ 11-406	Total
UVC	5	5	5	5	5	5	5	5	5	5	5	5	5	65
Ala.	3	1	5	0	1	0	0	0	2	2	4	2	0	20
Alaska	3	3	4	5	2	3	4	3	2	-2	2	0	0	29
Ariz.	5	2	2	0	-1	3	4	0	2	3	5	5	0	30
Ark.	-3	2	2	5	1	3	1	3	2	-3	5	5	0	23
Cal.	-3	2	1	0	1	3	1	0	4	2	4	3	0	18
Colo.	5	2	5	0	5	5	5	5	5	-3	5	0	4	43
Conn.	2	1	2	0	2	-1	4	0	2	5	5	0	0	22
Del.	-3	5	5	0	3	5	4	5	2	-2	3	5	5	37
Fla.	-3	1	5	5	4	5	4	3	3	-3	2	5	2	33
Ga.	5	5	5	5	5	5	5	5	5	5	5	5	4	64
Hawaii	5	5	1	5	4	5	4	4	4	2	2	5	0	46
Idaho	5	5	5	5	5	2	5	1	5	-3	5	5	3	48
Ill.	3	5	3	5	4	3	5	5	3	-2	1	5	0	40
Ind.	-3	2	1	2	1	0	1	1	2	-3	5	5	0	14
Iowa	3	2	3	0	4	4	3	4	2	-2	5	5	2	35
Kan.	5	5	5	5	5	5	5	5	5	5	5	5	5	65
Ky.	3	5	5	5	4	5	2	5	5	2	2	1	4	48
La.	5	2	2	5	3	2	2	3	3	5	5	5	0	42
Me.	1	1	0	0	-2	3	2	0	3	2	1	0	0	11
Md.	1	2	5	5	2	5	1	5	3	5	2	5	0	41
Mass.	5	2	3	0	5	5	5	5	2	-3	-2	0	0	27
Mich.	2	2	1	0	2	0	1	0	2	2	5	5	0	22
Minn.	2	3	5	0	1	2	2	1	5	2	5	5	0	33
Miss.	-3	2	1	1	1	0	-2	0	2	-3	5	5	0	9
Mo.	-3	1	3	5	4	5	3	5	3	-2	2	0	0	26
Mont.	5	2	1	0	1	3	-2	0	2	5	5	5	0	27
Neb.	4	3	5	5	4	4	4	3	3	-2	2	5	0	40
Nev.	-3	3	1	0	1	3	1	3	2	5	4	0	0	20
N.H.	-3	2	5	5	4	3	4	3	2	-2	5	5	0	33
N.J.	-3	0	1	0	-3	-3	-3	-3	2	2	4	3	0	-3
N.M.	-3	2	1	5	4	3	4	3	2	3	5	5	0	34
N.Y.	-3	5	5	0	4	5	4	5	3	3	2	3	0	36
N.C.	5	0	5	0	2	5	1	0	2	2	4	2	0	28
N.D.	5	2	5	5	5	2	5	5	5	5	5	5	5	59
Ohio	4	5	5	0	5	5	4	5	4	2	5	3	0	47
Okla.	3	2	1	5	1	3	1	3	2	5	5	5	0	36
Ore.	2	2	5	0	4	5	2	1	4	-2	5	2	0	30
Pa.	5	5	3	5	3	5	3	2	5	5	4	0	4	49
R.I.	-3	2	1	5	4	5	3	5	2	3	5	5	0	37
S.C.	5	5	5	5	5	5	5	5	5	5	5	5	4	64
S.D.	3	1	1	5	3	5	1	1	3	1	4	5	3	36
Tenn.	-3	2	1	0	1	3	2	0	2	5	5	5	0	23
Tex.	1	2	5	5	4	3	4	3	3	5	5	5	0	45
Utah	5	5	4	5	5	5	5	5	4	5	5	5	4	62
Vt.	5	5	5	5	4	5	4	5	3	-1	1	5	0	46
Va.	3	1	3	0	2	5	1	2	3	2	3	2	0	27
Wash.	5	5	5	4	4	4	5	4	2	5	5	5	5	58
W.Va.	-3	2	1	0	2	3	0	0	2	3	5	5	0	20
Wis.	3	2	3	0	1	3	2	1	4	-3	4	3	2	25
Wyo.	-3	2	1	5	4	3	4	3	2	5	5	5	0	36
D.C.	-3	2	1	0	4	0	1	1	2	5	5	5	0	23
P.R.	3	5	3	0	3	3	3	3	0	1	2	0	0	26

Table V -- Pedestrians' Rights and Duties

	§ 11-501(a)	§ 11-501(b),(c)	§ 11-502(a)	§ 11-502(b)	§ 11-502(c)	§ 11-502(d)	§ 11-503(a)	§ 11-503(b)	§ 11-503(c)	§ 11-503(d)	§ 11-504	§ 11-505
UVC	5	5	5	5	5	5	5	5	5	5	5	5
Ala.	0	3	5	5	5	5	5	5	5	0	2	5
Alaska	4	3	5	5	0	5	4	2	3	5	4	0
Ariz.	0	3	5	5	5	5	5	5	5	0	3	2
Ark.	0	3	1	0	5	5	5	5	5	0	1	5
Cal.	3	0	1	5	0	5	3	3	2	0	1	0
Colo.	5	5	5	5	5	5	5	5	5	5	3	5
Conn.	0	0	2	3	0	3	5	5	4	4	4	4
Del.	5	5	5	5	5	5	5	5	5	5	4	5
Fla.	5	5	5	5	2	5	2	5	5	5	2	5
Ga.	5	5	5	3	5	5	2	4	5	5	4	5
Hawaii	5	5	5	5	5	5	5	5	5	5	4	5
Idaho	5	5	5	5	5	5	5	5	5	5	5	5
Ill.	5	5	5	5	5	5	5	5	5	5	4	5
Ind.	5	5	5	5	5	5	5	5	5	5	5	5
Iowa	0	3	1	0	5	0	4	5	0	0	1	5
Kan.	5	5	5	5	5	5	5	5	5	5	4	5
Ky.	4	5	2	5	5	5	5	5	3	5	1	5
La.	0	3	5	5	5	5	5	0	5	0	3	5
Me.	0	0	5	5	5	5	5	5	5	5	0	0
Md.	0	3	5	5	5	5	5	5	5	5	4	5
Mass.	0	0	1	2	0	1	1	0	2	0	2	2
Mich.	0	0	0	0	0	0	0	0	0	0	0	0
Minn.	4	3	1	5	0	5	5	5	5	0	2	5
Miss.	0	3	1	0	5	5	5	5	5	0	1	5
Mo.	0	0	0	0	0	0	0	0	0	0	0	0
Mont.	0	3	5	5	5	5	5	5	5	0	2	5
Neb.	5	5	5	5	5	5	5	5	5	5	4	5
Nev.	2	0	5	5	0	4	4	4	5	5	0	5
N.H.	0	3	5	5	5	3	5	5	5	5	4	5
N.J.	4	0	1	5	5	3	3	5	1	0	0	5
N.M.	0	3	5	5	5	5	5	5	5	0	2	5
N.Y.	3	3	5	5	5	5	5	5	0	5	1	5
N.C.	0	3	2	0	5	5	5	5	5	0	1	0
N.D.	5	2	5	5	5	5	5	5	5	5	4	5
Ohio	4	0	5	5	5	5	5	5	5	5	1	5
Okla.	5	5	5	5	5	5	5	5	5	0	3	5
Ore.	4	3	1	4	3	5	3	2	0	0	1	0
Pa.	0	1	1	5	5	3	4	5	4	5	0	0
R.I.	0	3	5	5	5	5	5	5	5	0	5	5
S.C.	5	5	5	5	5	5	5	5	5	5	5	5
S.D.	0	0	-1	0	0	0	1	0	1	5	0	0
Tenn.	0	3	5	5	5	5	5	5	5	0	3	5
Tex.	0	3	5	5	5	5	5	5	5	5	4	5
Utah	5	5	5	5	5	5	5	5	5	4	5	5
Vt.	3	0	4	5	0	4	1	5	5	5	4	5
Va.	0	0	2	2	0	2	0	0	1	0	0	0
Wash.	4	3	5	5	5	5	5	5	5	5	4	0
W.Va.	0	3	5	5	5	5	5	5	5	0	2	5
Wis.	0	0	1	5	0	3	3	0	0	0	0	0
Wyo.	0	3	5	5	5	5	5	5	5	0	3	5
D.C.	0	3	5	2	0	5	5	1	2	5	2	5
P.R.	2	2	2	2	0	2	3	1	2	2	3	0

Table V -- Continued

	§ 11-506(a)	§ 11-506(b)	§ 11-506(c)	§ 11-506(d)	§ 11-507(a)	§ 11-507(b)	§ 11-507(c)	§ 11-508	§ 11-509	§ 11-510	§ 11-511	§ 11-512	§ 11-513	Total
UVC	5	5	5	5	5	5	5	5	5	5	5	5	5	125
Ala.	3	1	2	0	5	0	0	4	1	0	1	0	0	62
Alaska	3	1	2	0	2	1	0	5	1	0	1	3	0	59
Ariz.	3	1	2	0	5	0	0	5	1	0	2	0	0	62
Ark.	0	0	0	0	-1	0	0	5	0	0	1	0	0	40
Cal.	0	0	3	3	5	0	0	5	4	3	3	0	0	49
Colo.	0	5	2	0	-1	0	0	5	3	3	2	3	1	81
Conn.	4	4	5	4	-1	5	0	4	1	0	3	0	0	63
Del.	3	1	2	5	-1	5	5	5	3	0	1	3	0	91
Fla.	3	2	0	0	2	1	5	5	1	3	2	0	5	80
Ga.	5	3	5	5	5	5	5	5	4	4	3	4	5	111
Hawaii	3	1	2	0	-1	5	5	5	4	0	1	0	0	84
Idaho	5	5	5	5	5	5	5	5	5	3	5	5	5	123
Ill.	5	5	5	5	5	5	5	5	4	2	5	5	5	120
Ind.	5	5	5	5	5	4	5	5	5	5	5	0	5	119
Iowa	0	0	2	0	-1	0	0	5	1	0	2	0	0	33
Kan.	5	5	5	5	5	5	5	5	4	5	5	5	5	123
Ky.	5	5	5	5	5	2	5	0	0	4	5	5	5	101
La.	3	1	2	0	5	1	0	5	4	0	1	0	0	63
Me.	3	1	2	0	-1	4	0	0	1	0	1	0	0	51
Md.	3	2	2	0	5	1	5	5	4	3	1	0	0	83
Mass.	3	3	0	0	2	5	0	0	0	0	2	0	3	29
Mich.	3	0	2	0	0	0	0	1	0	0	2	0	0	8
Minn.	3	1	2	2	-1	2	0	2	0	0	1	0	0	52
Miss.	0	0	0	0	0	0	0	5	0	0	1	0	0	41
Mo.	0	0	0	0	0	0	0	0	0	0	2	0	0	2
Mont.	3	1	2	0	5	1	5	0	1	0	2	2	0	67
Neb.	5	5	5	0	5	2	5	5	4	1	2	0	0	98
Nev.	3	0	2	0	-1	1	0	5	0	0	2	3	0	54
N.H.	3	1	2	0	5	1	5	0	1	0	2	0	0	70
N.J.	3	1	3	0	-1	2	0	2	4	0	1	0	0	47
N.M.	3	1	2	0	5	1	5	5	1	0	2	0	0	70
N.Y.	3	1	2	2	5	2	5	5	4	0	1	0	0	77
N.C.	3	1	3	2	3	5	0	4	3	0	1	0	0	56
N.D.	5	5	5	5	5	2	5	5	4	4	5	5	2	113
Ohio	5	5	5	1	4	5	0	5	4	3	3	3	5	98
Okla.	3	1	2	2	5	2	0	5	1	0	2	0	0	76
Ore.	2	2	2	4	5	5	5	4	4	2	2	0	5	68
Pa.	5	5	5	5	5	2	5	5	3	5	2	5	5	90
R.I.	3	1	2	0	5	0	0	5	5	0	2	0	0	71
S.C.	5	5	5	5	5	5	5	5	5	5	2	5	5	122
S.D.	0	1	2	0	0	0	0	4	0	0	2	0	0	15
Tenn.	3	1	2	0	5	1	5	0	1	0	2	0	0	66
Tex.	3	1	2	0	5	2	0	5	4	0	1	0	0	75
Utah	4	4	5	5	4	4	5	5	5	5	2	5	2	114
Vt.	3	1	2	0	-1	3	5	5	1	0	2	0	0	62
Va.	2	3	3	0	-1	0	0	4	2	0	1	0	0	21
Wash.	3	1	2	2	1	1	5	5	4	5	1	5	5	91
W.Va.	3	1	2	0	5	0	0	0	1	0	1	0	0	58
Wis.	0	0	2	2	-1	0	0	4	4	0	2	0	0	25
Wyo.	3	1	2	0	-1	2	5	0	1	0	1	0	0	60
D.C.	3	1	2	0	1	0	0	5	4	3	0	0	0	54
P.R.	2	0	2	0	3	2	2	3	2	0	1	0	0	38

Table VI -- Turning and Starting and Signals on Stopping and Turning

	§ 11-601(a)	§ 11-601(b)	§ 11-601(c)	§ 11-601(d)	§ 11-602(a)	§ 11-602(b)	§ 11-603	§ 11-604(a)	§ 11-604(b)	§ 11-604(c)	§ 11-604(d)	§ 11-605(a)	§ 11-605(b)	§ 11-606	Total
UVC	5	5	5	5	5	5	5	5	5	5	5	5	5	5	70
Ala.	4	2	3	0	0	5	5	1	4	5	0	4	1	5	39
Alaska	4	2	3	0	0	5	1	3	2	5	4	5	5	5	44
Ariz.	4	2	3	0	0	5	5	1	4	5	0	4	1	5	39
Ark.	4	1	0	0	0	5	5	1	4	5	0	5	5	5	40
Cal.	1	1	3	4	0	1	3	1	4	4	0	2	2	4	30
Colo.	4	5	3	5	4	4	5	3	2	5	4	5	[illegible]	5	59
Conn.	2	1	3	0	0	5	2	3	4	5	2	2	4	3	36
Del.	4	2	3	0	5	5	5	3	2	5	3	4	5	5	51
Fla.	4	3	3	0	5	5	5	1	4	5	2	5	5	5	52
Ga.	5	5	4	0	3	1	5	3	2	5	4	5	5	5	52
Hawaii	4	3	3	0	0	5	5	3	4	5	4	5	5	5	51
Idaho	5	5	5	5	5	5	5	5	4	5	5	5	5	5	69
Ill.	4	3	3	0	5	5	5	3	2	5	2	2	0	5	44
Ind.	4	1	3	0	0	2	5	1	2	5	0	4	2	5	34
Iowa	4	1	3	0	0	5	5	1	2	5	0	1	0	1	28
Kan.	5	4	5	0	5	5	5	5	5	5	5	2	2	5	58
Ky.	5	5	5	0	5	5	2	5	4	5	0	2	1	5	49
La.	4	2	2	0	0	5	5	2	1	5	4	5	1	2	38
Me.	4	2	3	0	0	5	3	1	4	5	0	4	1	5	37
Md.	5	1	3	0	3	5	2	1	4	5	4	5	5	5	48
Mass.	1	1	2	0	0	-1	1	1	0	1	0	2	0	3	11
Mich.	4	1	3	0	0	0	0	2	0	1	0	2	2	4	19
Minn.	4	2	3	0	0	1	5	3	4	2	0	2	1	4	31
Miss.	4	1	3	0	0	5	5	1	1	5	0	2	1	2	30
Mo.	4	1	3	0	5	2	0	3	0	1	0	2	2	1	24
Mont.	4	2	3	0	0	5	5	1	4	5	0	5	5	5	44
Neb.	5	4	3	0	0	5	2	5	5	5	5	5	5	5	54
Nev.	4	2	0	0	0	5	1	1	2	3	0	5	1	4	28
N.H.	4	2	3	0	0	5	5	3	4	5	4	4	5	5	49
N.J.	4	2	2	0	0	2	1	1	4	1	0	2	1	4	24
N.M.	4	2	3	0	0	1	5	1	4	5	0	4	5	5	39
N.Y.	4	2	3	0	0	5	5	3	4	5	3	5	2	5	46
N.C.	5	3	2	0	0	0	2	1	1	1	0	2	1	2	20
N.D.	5	5	3	0	5	5	5	5	4	5	5	5	5	5	62
Ohio	4	2	3	0	0	5	5	3	1	5	5	4	5	5	47
Okla.	4	2	3	0	0	5	5	1	4	5	0	5	5	5	44
Ore.	4	5	4	0	0	2	5	2	3	3	2	2	2	5	39
Pa.	4	5	5	5	5	5	3	3	0	5	5	5	5	5	60
R.I.	4	2	3	0	0	5	5	1	4	5	0	5	5	5	44
S.C.	5	5	5	4	5	5	5	5	5	5	5	5	5	5	69
S.D.	1	3	1	0	5	1	2	1	0	5	3	2	1	5	30
Tenn.	4	2	3	0	0	5	2	1	1	5	2	4	5	3	37
Tex.	4	3	3	0	0	5	5	3	4	5	3	5	5	5	50
Utah	5	5	3	4	5	5	5	5	1	4	5	5	5	5	62
Vt.	4	2	0	0	0	5	2	2	5	5	2	4	0	4	35
Va.	4	2	3	0	0	2	2	1	1	1	2	2	1	3	24
Wash.	5	5	5	3	5	5	5	5	5	5	5	5	5	5	68
W.Va.	4	2	3	0	0	5	5	1	4	5	0	4	1	5	39
Wis.	5	4	3	0	0	1	2	1	3	5	0	2	1	5	32
Wyo.	4	2	3	0	0	5	5	1	4	5	0	4	5	5	43
D.C.	4	1	3	0	5	5	5	1	4	5	0	4	5	5	47
P.R.	3	3	2	0	0	2	5	1	5	2	0	1	5	3	32

Table VII -- Special Stops Required

	§ 11-701(a)	§ 11-701(b)	§ 11-703(a)	§ 11-703(b)	§ 11-703(c)	§ 11-704	§ 11-705	§ 11-706(a)(1)	§ 11-706(a)(2)	§ 11-706(a)(3)	§ 11-706(b)	§ 11-706(c)	§ 11-706(d)	Total
UVC	5	5	5	5	5	5	5	5	5	5	5	5	5	65
Ala.	1	0	0	0	0	2	2	5	0	1	0	0	0	11
Alaska	4	5	5	1	1	5	2	5	5	4	2	3	5	47
Ariz.	5	5	5	1	1	2	2	5	0	3	-2	5	5	37
Ark.	5	5	5	1	1	5	2	5	0	1	2	5	1	38
Cal.	2	2	5	2	2	0	0	5	5	2	3	2	3	33
Colo.	5	5	5	4	5	2	1	5	5	2	2	2	3	46
Conn.	1	0	1	0	2	0	2	0	2	2	-2	5	3	16
Del.	4	5	5	1	1	5	1	5	5	5	3	5	2	47
Fla.	5	5	5	1	1	5	5	5	2	2	0	2	1	39
Ga.	4	5	5	1	1	5	5	5	2	4	2	3	5	47
Hawaii	5	5	5	1	1	0	3	0	5	5	2	5	2	39
Idaho	5	5	5	5	5	5	5	5	5	5	2	5	-1	56
Ill.	4	5	5	5	2	2	4	5	2	4	-1	5	2	44
Ind.	4	0	3	1	1	2	2	5	1	1	-2	1	2	21
Iowa	1	0	2	1	1	2	1	5	-3	2	2	2	-1	15
Kan.	5	5	5	5	5	5	5	5	5	4	4	2	5	60
Ky.	1	0	2	2	1	0	0	5	0	1	-1	1	2	14
La.	4	5	1	1	1	2	1	5	2	5	-1	2	5	33
Me.	1	2	1	3	2	0	0	5	2	4	-2	5	2	25
Md.	5	5	5	0	1	2	1	0	5	5	-2	2	5	34
Mass.	1	0	1	0	1	0	1	5	5	4	0	5	1	24
Mich.	1	0	3	1	1	2	1	5	5	5	-2	2	1	25
Minn.	1	0	1	1	1	2	2	5	5	2	3	5	1	29
Miss.	1	0	2	1	1	2	2	5	0	1	0	1	0	16
Mo.	1	-2	2	1	2	0	0	5	2	2	-1	5	-1	16
Mont.	5	5	5	1	1	5	2	5	5	2	2	5	5	48
Neb.	4	5	2	2	2	3	1	0	-3	2	-2	5	5	26
Nev.	1	5	5	2	1	5	0	5	5	2	1	1	3	36
N.H.	5	5	5	1	1	5	2	5	0	5	2	5	0	41
N.J.	5	5	5	0	1	2	1	5	0	1	2	3	1	31
N.M.	5	5	5	2	1	5	2	5	2	4	-1	2	5	42
N.Y.	2	5	5	1	1	2	1	5	2	2	2	2	0	30
N.C.	1	0	3	4	1	0	0	5	1	5	-1	1	1	21
N.D.	4	5	5	1	1	2	5	5	5	4	4	5	5	51
Ohio	4	5	1	2	1	2	5	5	0	2	-1	2	-1	27
Okla.	5	5	5	1	1	0	2	5	5	2	3	2	5	41
Ore.	3	4	2	3	1	4	3	5	5	5	-1	2	2	38
Pa.	5	5	5	5	5	5	3	5	5	1	5	5	3	57
R.I.	5	5	5	1	1	5	2	0	5	5	0	5	2	41
S.C.	0	0	5	1	-1	0	2	5	2	5	-1	5	4	27
S.D.	2	0	1	1	1	1	5	3	5	4	2	5	2	32
Tenn.	5	5	5	1	1	2	2	5	0	4	2	2	5	39
Tex.	4	0	2	3	1	5	2	5	5	4	-1	0	5	35
Utah	4	5	3	3	5	5	5	0	5	2	1	2	2	42
Vt.	4	5	5	1	1	2	1	5	5	2	2	3	5	41
Va.	2	5	3	1	1	2	1	5	0	1	-2	1	2	22
Wash.	5	5	5	5	1	5	2	5	5	4	3	2	3	50
W.Va.	5	5	5	1	1	5	2	5	2	4	-1	3	5	42
Wis.	1	5	3	1	2	0	1	5	5	5	-2	5	2	33
Wyo.	5	5	5	1	-1	5	2	5	5	5	3	5	5	50
D.C.	5	0	0	0	0	0	2	0	5	2	-2	2	2	16
P.R.	0	0	0	0	0	0	2	3	2	2	0	2	2	13

Table VIII -- Speed Restrictions

	§ 11-801	§ 11-801.1I	§ 11-801.1II	§ 11-802	§ 11-803	§ 11-804(a)	§ 11-804(b)	§ 11-805	§ 11-806(a)	§ 11-806(c)-(e)	§ 11-807(a)	§ 11-807(b)	§ 11-808	Total
UVC	5	5	5	5	5	5	5	5	5	5	5	5	5	65
Ala.	2	-1	1	3	1	2	3	3	0	2	2	0	0	18
Alaska	3	3	0	1	1	5	3	2	2	2	0	0	1	23
Ariz.	3	-1	2	5	5	2	2	5	0	4	3	5	5	40
Ark.	3	-1	5	1	1	5	2	5	5	4	3	3	1	37
Cal.	2	-1	2	1	2	3	3	0	2	2	3	2	2	23
Colo.	2	-1	1	2	3	5	2	0	0	4	3	3	3	27
Conn.	2	-1	0	-1	1	4	0	0	0	0	0	0	2	7
Del.	5	5	2	5	1	5	2	5	0	4	2	0	2	38
Fla.	3	5	4	1	1	4	1	5	0	0	0	0	5	29
Ga.	4	5	5	4	2	4	5	0	0	4	5	0	5	43
Hawaii	3	2	0	1	1	0	1	0	0	0	0	0	5	13
Idaho	3	5	5	5	3	2	5	5	0	5	2	4	5	49
Ill.	3	5	5	1	3	5	5	0	0	4	5	5	1	42
Ind.	3	5	5	5	3	2	5	0	0	4	3	3	1	39
Iowa	2	5	1	2	1	2	0	0	2	2	3	3	2	25
Kan.	4	5	5	5	3	5	5	5	4	4	5	5	5	60
Ky.	1	5	2	1	1	4	0	1	0	0	2	0	2	19
La.	1	5	0	3	1	2	4	0	2	0	0	0	5	23
Me.	1	5	2	-1	1	5	3	5	2	0	2	0	0	25
Md.	4	5	2	1	3	2	5	0	3	2	5	0	2	34
Mass.	2	-2	2	1	1	0	0	0	0	0	0	0	2	6
Mich.	1	-1	2	1	1	2	3	2	2	4	3	3	2	25
Minn.	3	-1	5	2	1	2	3	0	0	4	3	3	0	25
Miss.	1	5	0	1	1	0	0	0	0	4	3	0	0	15
Mo.	1	5	0	1	1	2	0	0	0	0	0	2	0	12
Mont.	2	5	5	3	3	2	2	5	3	4	3	0	2	39
Neb.	4	5	1	2	3	5	4	5	2	5	5	5	5	51
Nev.	1	2	0	1	1	5	5	0	0	4	0	0	0	19
N.H.	2	-1	3	2	3	5	1	5	5	4	2	3	2	36
N.J.	1	1	2	3	1	4	0	0	0	0	2	0	2	16
N.M.	1	5	2	3	1	5	2	5	0	4	3	3	5	39
N.Y.	2	5	0	1	1	5	2	0	0	2	0	0	2	20
N.C.	1	5	2	1	2	1	4	0	2	0	0	2	1	21
N.D.	5	5	2	2	5	5	5	0	0	4	5	5	5	48
Ohio	1	-1	1	2	1	3	2	0	0	4	2	0	1	16
Okla.	2	5	0	3	3	5	2	1	0	4	5	5	0	35
Ore.	2	-1	2	1	1	1	0	0	0	0	2	0	5	13
Pa.	4	5	5	5	5	5	5	0	2	5	2	0	5	48
R.I.	3	-2	2	3	2	2	0	5	0	4	0	3	1	23
S.C.	3	5	5	5	5	5	5	5	5	4	3	0	2	52
S.D.	1	5	5	1	1	5	2	0	2	3	2	0	5	32
Tenn.	0	5	0	1	1	5	2	1	0	4	3	0	2	24
Tex.	3	-2	5	1	1	5	5	5	2	3	2	0	5	35
Utah	5	-2	5	2	2	2	2	0	0	4	3	3	2	28
Vt.	2	5	0	2	2	0	0	0	0	4	0	0	2	17
Va.	1	5	2	1	1	5	5	0	2	4	0	0	1	27
Wash.	3	2	0	1	3	3	5	0	0	3	5	5	1	31
W.Va.	3	5	2	3	2	5	2	0	0	4	3	3	2	34
Wis.	3	5	1	1	1	5	0	0	0	0	0	0	2	18
Wyo.	1	5	5	5	4	5	2	5	0	4	5	5	2	48
D.C.	3	5	2	2	0	5	0	0	0	0	0	0	0	17
P.R.	3	5	3	3	0	3	3	2	0	0	2	0	2	26

Table IX -- Serious Traffic Offenses

	§ 11-901(a)	§ 11-902(a)1	§ 11-902(a)2	§ 11-902(a)3	§ 11-902(a)4	§ 11-902(b)	§ 11-902.1(b)III	§ 11-903(a)	§ 11-904(a)	Total
UVC	5	5	5	5	5	5	5	5	5	45
Ala.	1	0	1	1	0	0	5	0	0	8
Alaska	1	0	2	1	0	0	5	0	2	11
Ariz.	2	0	3	5	0	1	5	0	2	18
Ark.	3	0	3	5	0	3	5	1	0	20
Cal.	4	0	2	3	3	3	5	2	5	27
Colo.	2	0	4	5	0	3	5	1	5	25
Conn.	2	0	2	3	3	0	5	1	0	16
Del.	2	3	2	3	3	5	5	0	3	26
Fla.	2	3	1	1	0	0	5	1	2	15
Ga.	2	0	3	5	3	3	5	4	5	30
Hawaii	1	0	3	4	0	3	5	2	0	18
Idaho	1	0	3	5	4	3	4	2	0	22
Ill.	5	0	3	5	0	3	5	1	3	25
Ind.	1	0	3	1	0	-1	5	1	0	10
Iowa	3	0	1	3	3	-2	4	0	0	12
Kan.	5	0	3	5	0	3	4	2	5	27
Ky.	-1	0	3	3	0	0	5	2	2	14
La.	2	0	2	1	0	0	5	0	0	10
Me.	2	0	2	3	0	0	5	1	0	13
Md.	2	0	5	5	5	-1	5	1	5	27
Mass.	1	0	1	1	2	0	5	1	2	13
Mich.	2	0	2	1	2	0	5	1	3	16
Minn.	2	4	3	2	1	0	4	1	0	17
Miss.	3	0	3	2	0	0	4	0	0	12
Mo.	-1	3	1	4	0	3	5	0	0	15
Mont.	5	0	5	5	0	3	5	0	3	26
Neb.	2	4	3	3	0	0	5	4	0	21
Nev.	3	0	2	1	1	3	5	0	3	18
N.H.	2	0	1	1	0	0	5	1	0	10
N.J.	1	0	3	1	0	0	5	1	2	13
N.M.	2	0	3	5	0	3	5	2	0	20
N.Y.	1	4	3	1	0	0	4	0	0	13
N.C.	1	2	2	4	0	0	4	4	1	18
N.D.	1	0	2	2	0	0	5	0	5	15
Ohio	1	0	4	1	2	0	5	2	2	17
Okla.	1	0	2	2	0	3	5	1	0	14
Ore.	2	4	2	1	2	0	5	0	3	19
Pa.	1	0	2	2	2	4	5	4	4	24
R.I.	2	0	2	1	1	0	5	1	2	14
S.C.	3	0	3	2	0	0	5	1	2	16
S.D.	1	5	2	3	1	3	5	0	3	23
Tenn.	3	0	1	1	0	3	5	1	0	14
Tex.	2	0	1	5	0	3	4	1	5	21
Utah	5	3	5	5	5	3	5	1	3	35
Vt.	2	2	3	4	4	3	5	4	2	29
Va.	1	0	3	1	0	0	5	0	2	12
Wash.	2	0	3	5	0	3	5	1	3	22
W.Va.	5	0	3	5	3	3	5	1	0	25
Wis.	2	0	2	1	0	0	5	1	2	13
Wyo.	5	0	1	1	1	3	5	1	5	22
D.C.	1	0	2	1	0	0	4	1	0	9
P.R.	1	0	2	1	0	2	3	0	0	9

Table X -- Stopping, Standing and Parking

	§ 11-1001(a)	§ 11-1001(b)	§ 11-1002(a)	§ 11-1002(b)	§ 11-1002(c)	§ 11-1003	§ 11-1004(a)	§ 11-1004(b)	§ 11-1004(d)	Total
UVC	5	5	5	5	5	5	5	5	5	45
Ala.	2	1	3	0	0	1	0	0	0	7
Alaska	1	2	4	2	3	4	3	3	0	22
Ariz.	4	1	4	5	5	1	1	1	4	26
Ark.	4	2	4	1	0	1	1	1	4	18
Cal.	2	2	2	2	3	1	1	2	4	19
Colo.	1	2	2	2	0	4	5	5	4	25
Conn.	1	2	1	2	1	1	1	0	3	12
Del.	1	5	3	5	3	2	4	4	4	31
Fla.	4	2	4	2	0	4	3	3	0	22
Ga.	5	4	5	3	5	5	5	5	4	41
Hawaii	0	0	0	0	0	0	0	0	4	4
Idaho	5	5	5	5	5	5	2	2	4	38
Ill.	5	5	5	5	5	4	5	5	5	44
Ind.	4	2	3	1	0	1	1	0	4	16
Iowa	2	2	4	1	0	1	1	1	0	12
Kan.	5	5	5	5	5	5	5	5	4	44
Ky.	2	2	4	2	0	1	0	0	0	11
La.	4	2	4	1	0	1	1	0	4	17
Me.	2	2	3	2	1	0	0	0	0	10
Md.	4	2	0	1	1	5	3	3	4	23
Mass.	1	1	2	2	1	1	2	0	0	10
Mich.	2	1	2	2	0	1	1	1	3	13
Minn.	2	2	4	2	0	1	1	1	0	13
Miss.	2	2	4	1	0	1	1	0	0	11
Mo.	0	0	0	0	0	0	2	0	0	2
Mont.	4	2	4	1	0	1	1	1	4	18
Neb.	4	2	3	3	0	4	3	3	3	25
Nev.	4	2	3	2	1	2	1	1	4	20
N.H.	4	2	1	0	1	4	1	3	4	20
N.J.	2	1	2	2	1	1	1	1	0	11
N.M.	4	2	4	1	0	1	1	1	4	18
N.Y.	4	2	3	2	0	3	3	2	2	21
N.C.	2	2	3	2	0	1	0	0	0	10
N.D.	2	2	4	1	5	1	5	5	4	29
Ohio	4	2	4	2	0	1	1	1	0	15
Okla.	4	2	4	1	0	1	1	1	4	18
Ore.	4	4	5	0	0	3	4	4	1	25
Pa.	4	5	3	4	4	3	4	2	1	30
R.I.	4	0	4	1	1	1	1	1	4	17
S.C.	4	2	4	1	0	1	1	1	4	18
S.D.	2	2	3	1	5	4	3	3	4	27
Tenn.	4	2	3	2	0	1	1	1	3	17
Tex.	4	2	4	2	3	4	2	2	4	27
Utah	4	2	5	5	5	5	5	5	4	40
Vt.	2	2	4	2	2	4	3	3	4	26
Va.	1	1	2	2	1	1	1	1	2	12
Wash.	1	5	4	2	3	4	5	5	5	34
W.Va.	4	2	4	1	0	1	1	1	4	18
Wis.	2	2	2	2	0	2	3	2	4	19
Wyo.	4	2	4	1	0	1	1	1	4	18
D.C.	0	0	2	2	0	2	3	1	0	10
P.R.	3	2	3	0	3	2	2	3	0	18

Table XI -- Miscellaneous Rules

	§ 11-1101	§ 11-1102(a)	§ 11-1102(b)	§ 11-1103	§ 11-1104(a)	§ 11-1104(b)	§ 11-1105	§ 11-1106	§ 11-1107	§ 11-1108	§ 11-1109	§ 11-1110	§ 11-1111(a)	§ 11-1111(b)	§ 11-1111(c)	§ 11-1112	§ 11-1113(a)	§ 11-1113(b)	§ 11-1114	Total
UVC	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	95
Ala.	4	4	5	0	5	5	0	0	2	2	1	5	5	5	5	0	0	0	0	48
Alaska	2	5	5	0	0	0	2	2	0	4	3	3	0	0	5	0	1	1	0	33
Ariz.	0	2	0	0	5	5	0	0	3	4	3	5	5	5	5	0	0	0	2	44
Ark.	2	0	0	0	5	5	1	5	2	4	3	5	5	5	5	0	0	0	1	48
Cal.	1	1	0	2	2	2	2	1	5	2	1	3	3	3	3	0	2	3	0	36
Colo.	3	5	5	4	5	5	2	2	5	5	3	3	5	4	5	5	3	2	0	71
Conn.	1	2	0	4	1	0	0	5	0	1	2	5	2	0	0	0	5	3	1	32
Del.	4	5	5	3	5	5	2	5	0	4	5	3	5	5	5	5	0	0	1	67
Fla.	2	5	5	4	5	5	1	5	0	4	3	5	2	5	5	4	0	0	1	61
Ga.	2	5	5	4	5	5	2	4	5	5	3	5	2	0	0	3	0	0	0	55
Hawaii	5	5	5	4	5	5	2	5	0	4	3	5	0	0	0	0	0	0	0	48
Idaho	5	5	5	5	5	5	2	5	5	5	5	5	5	5	5	5	5	5	2	89
Ill.	5	5	5	4	5	5	2	5	5	5	5	5	5	5	5	5	3	1	2	82
Ind.	2	0	0	0	5	5	0	0	0	4	3	5	5	5	5	0	3	2	2	46
Iowa	1	2	0	0	5	5	0	0	2	4	3	5	4	5	5	0	3	2	0	46
Kan.	5	5	5	4	5	5	2	5	5	5	5	5	5	5	5	5	5	5	1	87
Ky.	2	0	0	0	2	2	0	0	2	4	1	5	4	0	5	0	0	0	2	29
La.	4	2	2	0	5	2	1	5	0	2	2	5	2	0	0	0	0	0	0	32
Me.	1	0	0	0	5	0	2	2	0	2	1	5	3	3	0	0	3	2	0	29
Md.	4	5	5	1	2	5	3	5	0	5	2	4	4	4	5	0	0	0	0	54
Mass.	2	2	0	4	1	0	0	2	0	0	2	3	1	0	0	3	5	1	1	27
Mich.	1	0	0	1	2	5	0	0	0	4	5	5	4	5	5	0	3	2	2	44
Minn.	1	0	5	0	5	5	4	0	2	4	3	5	3	4	5	0	1	1	1	49
Miss.	2	0	0	0	5	5	0	0	2	4	3	5	5	5	5	0	0	0	1	42
Mo.	1	0	0	0	0	0	0	0	0	0	0	0	3	2	0	0	0	0	2	8
Mont.	1	2	0	0	5	5	1	1	3	2	3	5	5	5	5	0	5	5	1	54
Neb.	4	5	5	4	4	5	2	0	2	2	2	5	5	4	4	0	3	2	1	59
Nev.	2	5	0	2	5	5	0	5	3	4	3	5	5	5	5	0	0	0	0	54
N.H.	4	5	5	0	5	5	2	5	2	4	3	5	1	0	0	0	2	1	1	50
N.J.	1	1	0	2	1	0	0	0	2	2	2	0	2	0	0	3	5	2	1	24
N.M.	3	2	5	0	5	5	2	3	2	1	3	5	5	5	5	0	5	1	0	57
N.Y.	2	5	5	3	2	5	2	3	2	2	3	5	5	3	5	3	3	2	1	61
N.C.	1	5	0	3	1	0	0	2	0	3	3	1	0	0	0	0	0	0	0	19
N.D.	1	5	5	4	5	5	2	1	5	5	5	5	4	5	5	5	2	1	1	71
Ohio	5	1	2	4	2	5	2	5	0	0	2	5	3	2	2	5	3	2	3	53
Okla.	1	-1	1	1	5	5	2	0	3	4	3	5	5	5	5	0	0	0	0	44
Ore.	4	3	0	0	2	2	2	1	0	4	2	5	3	0	2	4	1	2	0	37
Pa.	2	5	5	5	5	0	5	4	3	2	5	5	1	3	3	4	2	3	3	65
R.I.	4	2	2	0	5	5	0	3	0	4	3	5	5	0	0	0	1	3	1	43
S.C.	4	5	5	4	5	5	4	5	5	4	5	5	0	0	0	0	0	0	1	57
S.D.	1	5	5	4	5	5	2	5	2	5	2	5	0	0	0	0	1	2	0	49
Tenn.	2	2	0	0	5	5	0	0	2	4	2	5	5	5	5	0	0	0	0	42
Tex.	5	5	5	4	5	5	2	5	2	5	3	5	5	5	5	0	0	0	1	67
Utah	2	5	5	4	5	5	2	5	5	5	5	5	3	3	3	5	3	5	4	79
Vt.	4	5	5	1	1	5	2	2	0	5	2	3	5	5	5	0	5	2	1	58
Va.	1	1	0	1	2	0	0	3	0	2	4	3	3	5	5	0	0	0	1	31
Wash.	4	5	5	0	5	5	2	2	0	4	5	5	5	5	5	5	1	2	0	65
W.Va.	4	2	0	0	2	5	0	0	2	4	3	5	5	5	5	0	0	0	3	45
Wis.	0	1	0	4	2	5	0	1	0	0	2	5	3	0	0	0	3	1	2	29
Wyo.	4	2	0	0	5	5	0	0	2	4	3	5	5	5	5	0	0	2	0	47
D.C.	4	2	0	4	5	5	1	0	0	4	3	5	4	4	4	4	0	0	0	49
P.R.	3	5	5	3	2	3	0	2	0	0	2	3	2	3	3	0	0	0	0	36

Table XII -- Operation of Bicycles and Other Human-Powered Vehicles

	§ 11-1201(a)	§ 11-1201(b)	§ 11-1202	§ 11-1203(b)	§ 11-1204	§ 11-1205(a)	§ 11-1205(b)	§ 11-1205(c)	§ 11-1206	§ 11-1207	§ 11-1208	§ 11-1209	§ 11-1210	§ 11-1211	Total
UVC	5	5	5	5	5	5	5	5	5	5	5	5	5	5	70
Ala.	5	5	2	4	3	5	4	5	2	0	0	0	0	0	35
Alaska	0	5	4	2	3	5	4	2	2	0	0	0	0	0	27
Ariz.	0	5	2	4	3	5	4	5	2	0	0	0	0	0	30
Ark.	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1
Cal.	0	0	2	2	3	2	0	2	2	0	0	0	2	0	15
Colo.	0	5	2	4	3	5	4	5	0	0	0	0	0	0	28
Conn.	0	4	1	3	3	5	4	0	4	3	3	3	0	0	33
Del.	0	5	2	4	3	5	4	5	2	0	0	1	0	0	31
Fla.	2	5	2	4	3	5	4	5	3	0	0	0	0	0	33
Ga.	5	4	2	4	3	5	4	2	2	0	0	0	0	0	31
Hawaii	5	5	2	0	3	2	1	1	2	0	0	0	0	0	21
Idaho	5	5	2	4	3	5	4	5	2	0	0	0	0	0	35
Ill.	0	5	1	0	0	5	0	3	0	0	0	0	0	0	14
Ind.	5	5	1	4	3	0	4	0	3	0	0	0	0	0	25
Iowa	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1
Kan.	5	5	2	4	3	5	4	5	2	0	0	0	0	0	35
Ky.	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1
La.	0	0	2	4	2	5	4	5	3	0	0	0	0	0	25
Me.	2	0	2	4	3	2	0	0	0	0	0	0	0	0	13
Md.	5	4	3	3	3	2	1	3	3	0	0	0	0	0	27
Mass.	2	3	2	2	3	0	1	0	4	0	0	2	2	3	24
Mich.	5	5	2	4	3	5	4	5	3	0	0	2	0	0	38
Minn.	0	0	3	5	3	2	4	0	2	0	4	2	2	4	31
Miss.	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1
Mo.	2	0	2	0	-2	4	0	3	0	0	0	0	0	0	9
Mont.	3	0	2	0	3	5	1	5	2	0	0	0	0	0	21
Neb.	0	2	2	4	3	5	1	5	3	0	0	0	0	0	25
Nev.	5	5	2	4	3	5	4	5	2	0	0	0	0	0	35
N.H.	0	0	2	4	0	5	4	5	2	0	0	0	0	2	24
N.J.	0	0	2	4	3	5	1	5	3	0	0	0	0	0	23
N.M.	5	3	2	4	3	5	4	5	2	0	0	0	0	0	33
N.Y.	0	5	2	4	3	2	4	5	2	0	0	0	0	0	27
N.C.	0	0	2	0	0	0	0	0	0	0	0	0	0	0	2
N.D.	5	5	2	4	3	5	4	5	2	0	0	0	0	0	35
Ohio	0	0	2	4	3	5	4	0	2	0	0	0	0	0	20
Okla.	5	5	2	4	3	5	4	5	2	0	0	0	0	0	35
Ore.	0	0	1	4	3	4	4	4	2	0	0	2	0	2	26
Pa.	0	4	3	4	4	4	4	4	3	0	0	2	5	0	37
R.I.	5	4	4	5	5	5	5	5	5	3	5	5	5	5	66
S.C.	3	0	2	4	3	5	4	5	2	0	0	0	0	0	28
S.D.	0	0	2	0	0	0	0	0	0	0	0	0	0	0	2
Tenn.	5	5	2	4	3	5	4	5	2	0	0	0	0	0	35
Tex.	5	5	2	4	3	5	4	5	2	0	0	0	0	3	38
Utah	0	5	2	5	5	5	5	5	2	5	5	3	5	5	57
Vt.	0	4	2	4	3	5	4	5	2	0	0	0	0	0	29
Va.	0	0	1	0	3	4	1	5	0	0	0	0	0	0	14
Wash.	5	5	2	4	3	4	4	5	2	0	0	0	0	0	34
W.Va.	5	5	2	4	3	5	4	5	2	0	0	0	0	0	35
Wis.	0	5	2	4	3	1	1	5	2	0	0	0	0	0	23
Wyo.	5	5	2	4	3	5	4	5	2	0	0	0	0	0	35
D.C.	2	5	1	4	3	0	4	0	2	0	0	2	0	2	25
P.R.	0	5	1	2	2	2	1	0	2	0	0	1	0	0	16

Table XIII -- Special Rules for Motorcycles

	§ 11-1301	§ 11-1302(a)	§ 11-1302(b)	§ 11-1302(c)	§ 11-1302(d)	§ 11-1303(a)	§ 11-1303(b)	§ 11-1303(c)	§ 11-1303(d)	§ 11-1305(a)	§ 11-1305(b)	§ 11-1306(a)	§ 11-1306(b)	§ 11-1306(c)	Total
UVC	5	5	5	5	5	5	5	5	5	5	5	5	5	5	70
Ala.	0	2	0	0	0	0	0	0	0	0	0	5	0	0	7
Alaska	0	5	2	5	0	0	0	0	0	5	5	1	5	3	31
Ariz.	0	5	0	0	0	0	0	0	0	0	5	1	2	3	16
Ark.	0	1	0	0	0	0	0	0	0	5	0	5	2	0	13
Cal.	0	1	0	0	0	0	0	0	0	5	2	0	0	0	8
Colo.	5	5	5	5	5	5	5	5	5	5	0	0	2	0	52
Conn.	0	4	5	0	0	0	0	0	-2	0	5	0	5	3	20
Del.	0	5	5	5	5	0	0	0	0	5	5	1	2	0	33
Fla.	5	5	5	5	5	5	5	5	5	5	5	5	2	3	65
Ga.	5	5	5	5	5	5	5	5	5	5	5	5	5	3	68
Hawaii	5	5	5	5	5	5	0	5	5	5	5	1	2	0	53
Idaho	0	5	0	0	0	0	0	0	0	5	0	1	0	0	11
Ill.	5	5	5	5	5	0	0	0	0	5	5	0	0	3	38
Ind.	3	2	5	5	5	5	0	0	5	5	5	5	1	0	46
Iowa	3	5	5	5	5	5	0	5	5	5	5	0	2	5	55
Kan.	5	5	5	5	5	5	5	5	5	5	2	1	5	3	61
Ky.	0	1	0	0	0	0	0	0	0	5	0	5	5	3	19
La.	0	5	4	5	5	5	5	5	5	5	5	1	5	3	58
Me.	0	5	0	0	0	0	0	0	-2	5	5	0	0	0	13
Md.	5	4	5	5	5	5	5	5	5	5	5	5	5	3	67
Mass.	0	4	0	0	0	1	0	0	0	5	0	5	0	0	15
Mich.	0	2	0	5	0	5	0	2	5	0	5	5	2	0	31
Minn.	3	5	3	5	5	4	5	4	5	5	2	5	5	3	59
Miss.	0	0	0	0	0	0	0	0	0	0	0	5	0	0	5
Mo.	0	0	0	0	0	0	0	0	0	0	0	5	0	0	5
Mont.	3	5	5	5	5	5	0	0	5	0	0	1	0	0	34
Neb.	5	5	5	5	5	4	5	5	5	5	2	5	0	0	56
Nev.	1	2	3	3	0	4	5	4	1	5	5	5	2	2	42
N.H.	0	4	0	5	0	0	0	0	5	5	3	1	5	0	28
N.J.	0	5	0	0	0	0	0	0	0	5	5	5	5	0	25
N.M.	0	4	0	0	0	0	0	0	0	5	0	1	5	0	15
N.Y.	5	5	5	5	5	3	5	2	5	5	5	5	5	0	60
N.C.	0	1	0	0	0	5	0	0	5	0	0	5	0	0	16
N.D.	5	5	5	5	5	5	5	5	5	5	0	5	0	5	60
Ohio	0	2	5	0	0	0	0	0	-3	5	5	1	5	0	20
Okla.	0	1	0	0	0	0	0	2	0	5	2	1	5	0	16
Ore.	0	3	5	5	3	5	3	5	3	5	2	1	0	4	44
Pa.	5	5	5	5	5	2	5	5	5	5	2	5	3	0	57
R.I.	0	5	0	0	0	0	0	0	0	5	5	0	5	0	20
S.C.	3	5	5	5	5	5	5	5	5	5	5	5	5	2	65
S.D.	0	5	5	5	5	5	2	5	5	0	5	1	5	3	51
Tenn.	5	5	5	5	5	0	0	0	0	5	5	5	2	5	47
Tex.	0	5	0	0	0	0	0	0	0	0	0	1	0	2	8
Utah	0	4	5	5	5	5	5	5	5	5	2	1	1	3	51
Vt.	0	5	5	5	5	5	5	5	-2	5	0	5	2	0	45
Va.	0	2	0	0	0	0	0	0	-2	5	1	5	5	0	16
Wash.	0	5	5	0	5	5	5	5	0	5	5	0	5	0	45
W.Va.	0	2	5	0	0	0	0	0	0	5	1	5	2	0	20
Wis.	0	2	0	0	1	5	0	0	5	5	5	5	5	0	33
Wyo.	0	5	2	5	5	5	3	5	5	5	5	5	0	5	55
D.C.	0	2	0	0	0	0	0	0	0	5	0	5	5	0	17
P.R.	0	3	5	5	5	3	3	3	3	0	0	5	5	0	40

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NON-USE OF AUTOMOBILE SAFETY BELTS IN CIVIL LITIGATION

The Commentary series covers, on a selective basis, the development and status of state motor vehicle and traffic laws, particularly as they relate to provisions in the Uniform Vehicle Code.

TD 8.5/2:

Non-Use of Automobile Safety Belts in Civil Litigation

by

A.J. Donelson, Jr.

National Committee on Uniform Traffic Laws and Ordinances

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TABLE OF CONTENTS

INTRODUCTION. 1

CONTRIBUTORY NEGLIGENCE 2

Duty to Wear Seat Belts. 2

The Reasonable Man Standard 2

Statutory Duty to Wear Belts. 5

Proximate Cause. 6

MITIGATION OF DAMAGES 7

Avoidable Consequences 7

Distinguishing the Damage and Liability Questions . . 8

Causal Connection 9

Comparative Negligence 11

DIRECT NEGLIGENCE 18

PRODUCT LIABILITY CASES 19

STATUTORY PROVISIONS REGARDING THE SEAT BELT DEFENSE. 21

SUMMARY 25

FOOTNOTES 27

INTRODUCTION

A person's responsibility to pay for damage he causes has been recognized in most civilized societies. The mechanics of establishing this responsibility may involve a law suit in which the person injured, the plaintiff, must show that the defendant was negligent because he failed to perform a duty, and that this failure caused injury to the plaintiff or his property. This concept of "civil liability" was developed prior to the advent of the motor vehicle and, with some adjustment, has been broadened to cover damages resulting from its operation.

Under legal doctrines called "contributory negligence" and "comparative negligence," however, the plaintiff may have his compensation reduced or completely denied, notwithstanding the negligence of the defendant, when his own actions or wrongdoing also contributed to the accident and resulting injuries. Even if he avoids these problems, the plaintiff may be unable to recover for any injuries which he could have reasonably avoided by taking proper care. This legal doctrine is referred to as "avoidable consequences."

In recent automobile accident cases, defendants have attempted to avoid civil liability by introducing evidence that the plaintiff was not wearing an available safety belt. This defense, hereinafter referred to as the seat belt defense, is predicated mainly on two theories:

(1) The non-use of a seat belt caused the plaintiff's injuries and therefore the defendant should not be liable; and

(2) The defendant should not be liable for injuries that could have been avoided by the use of a seat belt.

These cases present issues found in other civil liability cases. Was the plaintiff negligent in failing to wear a seat belt? Assuming the plaintiff's negligence in failing to wear a seat belt, was this negligence the proximate cause of the plaintiff's injuries? If negligence and proximate cause are established, will the plaintiff's negligence bar all recovery or merely bar recovery for those injuries which were caused by the non-use of a seat belt? Finally, if the plaintiff's negligence did not cause the injuries, will recovery still be denied for those injuries which could have been avoided by the use of a seat belt?

This Commentary examines these issues by reviewing court decisions on the non-use of automobile safety belts in civil litigation. It updates and expands a discussion of these issues in a 1972 Commentary entitled "Laws Requiring Seat Belts."[1/]

CONTRIBUTORY NEGLIGENCE

Contributory negligence is negligence which contributes to the accident, having a causal connection with it, and but for which the accident would not have happened. The doctrine precludes recovery by one injured in a motor vehicle accident in an action based upon the defendant's negligence, where there is any fault on the part of the injured person, even though small in comparison with that of the defendant, if the negligence of the injured person contributed proximately to the occurrence of the accident and the defendant did not have the last clear chance to avoid the accident.[2]

In many of the seat belt cases, defendants have alleged that the non-use of a seat belt constitutes contributory negligence. If the plaintiff is contributorily negligent in failing to wear a seat belt, then he is barred from recovering from the defendant.

Before discussing the issue of contributory negligence as it relates to the seat belt defense, however, it is necessary to understand the elements of a negligence cause of action because contributory negligence, in general, is determined and governed by the same tests and rules as the negligence cause of action. To prove negligence, a person must establish: (1) a duty to a particular class of individuals; (2) a breach of that duty; and (3) that the breach was the "proximate cause" or "legal cause" of the accident and resulting injuries.[3]

Duty to Wear Seat Belts.

The Reasonable Man Standard

The law requires a person to conform to a certain standard of conduct for the protection of others. It is the standard of conduct to which the reasonable man of ordinary prudence under like circumstances would conform. The duty is to refrain from conduct which would create an unreasonable risk of personal injury or property damage.[4] This duty is owed only to those persons who are foreseeably endangered by the conduct and only with respect to those risks whose likelihood made the conduct unreasonably dangerous.[5] Duty is measured by the scope of the risk which negligent conduct foreseeably entails.[6] Whether or not the defendant should

have foreseen the risk to the plaintiff and should have known it was unreasonable is determined by whether or not a reasonable man would have foreseen it and would have known it was unreasonable.[7]

While the duty required in a negligence cause of action defines a standard of conduct for the protection of "others," most seat belt cases involve conduct which presents a risk to the "actor" himself. This is a contributory negligence issue. Contributory negligence is conduct on the part of the plaintiff, contributing as a legal cause to the harm he has suffered, which falls below the standard to which he is required to conform for his own protection.[8] Nevertheless, contributory negligence still involves the issue of whether the plaintiff conformed to the duty of care of the reasonable man of ordinary prudence under like circumstances.

Whether the reasonable man standard of care requires the use of a seat belt, without a state or local law requiring it, depends upon whether a failure to do so would create an unreasonable risk. If such a standard does exist, a breach of it will constitute contributory negligence.

Only a few cases have suggested that there is an absolute duty to wear seat belts.[9] In Bentzler v. Braun, the case most often cited for the proposition that a duty does exist, the court ruled there was a duty based on the common law standard of ordinary care, independent of any statutory mandate to use available seat belts.[10]

Some courts have commented in dictum that a duty to wear seat belts may arise under certain circumstances, such as where a particularly dangerous trip is undertaken, but in light of all the factors noted above the exercise of reasonable care does not require the use of seat belts under all circumstances. In Remington v. Arndt, a Connecticut court held that proof of the defendant's narrow allegation that the passenger did not fasten his seat belt would not establish negligence and that the defendant's allegations did not spell out an omission to act which would bar the plaintiff's action. The court did say the duty may arise, however, should the operator warn the passenger during the course of a journey to fasten his seat belt because the brakes or steering mechanism had suddenly become unreliable.[11]

Two years later, another Connecticut court, relying on the Remington decision, stated that when there were no unusual circumstances, such as hazardous conditions or a known incompetent or unsafe driver, ordinary care did not require a passenger to fasten a seat belt and thus the non-use of a seat belt was not negligence.[12] However, these decisions probably will be limited to their narrow holdings for two reasons. First, the courts' statements that a duty may arise under certain circumstances were dictum and neither court found those curcumstances present in its holding. Secondly, these decisions were handed down when Connecticut was a contributory negligence state and a more recent court held that the non-use of a seat belt was not negligence under Connecticut's comparative negligence statute (see discussion on comparative negligence, infra).[13]

The vast majority of courts have held that there is no common law duty to wear an available seat belt.[14] Absent a duty to wear a seat belt, the defendant will not be able to bar a plaintiff's recovery on the basis of contributory negligence.

Many courts have refused to impose a duty based on the common law standard of ordinary care because of the conflicting evidence about the value of seat belts.[15] Courts point out that there is some evidence that seat belts may cause or aggravate certain injuries,[16] that some people are afraid to wear seat belts because they fear being trapped in a wrecked or submerged car,[17] and statistics indicate a very low level of usage.[18] This fact that only a minority of people use seat belts is a relevant factor in determing the standard of care of the reasonable man because the standard is a community standard and evidence of the usual customary conduct of others under similar circumstances is normally admissible in determining the conduct of the reasonable man.[19]

In McCord v. Green, the plaintiff was the passenger in a car involved in an intersection collision. Since the plaintiff was not wearing a seat belt, the trial court instructed the jury on contributory negligence. The appellate court held that this instruction was error because the court doubted statements that seat belts had never aggravated injuries -- for example, where the car has been driven off a bridge or where the car had caught fire. The court felt that in intersection collisions seat belts can cause damage that otherwise would not have occurred

had the victim been thrown free. In addition statistics refuted the idea that the usual practice of drivers was to wear seat belts.[20]

Some courts have been influenced by the traditional tort theory that there is no duty to anticipate the negligence of others. In Nash v. Kamrath, the plaintiff was a passenger in a car struck by the defendant. The defendant sought to introduce evidence that the plaintiff's injury was caused by his failure to wear a seat belt. The appellate court said this was irrelevant because there was no duty to fasten a seat belt. The court said a person has the right to assume that others on the highway won't be negligent. The plaintiff should not be required to "truss himself up in every known safety apparatus before proceeding on the highway."[21]

Statutory Duty to Wear Belts

Several courts have examined the issue of whether failure to wear an available seat belt constitutes negligence per se. Generally, one is held to the standard of a reasonable man in determing whether conduct creates an unreasonable risk of harm.[22] When the legislature enacts a statute, however, it dictates a standard of conduct to which all must conform. A violation of such a statute is negligent per se.[23] That is, the statute determines the standard of care required and a breach of that statute conclusively establishes negligence.[24]

Many state statutes require the installation of seat belts in passenger automobiles manufactured after a certain date. These laws do not expressly require the use of such belts, however.[25]

Defendants have claimed that these installation statutes implicitly create a duty to use seat belts, and that the breach of that duty constitutes contributory negligence as a matter of law, thus barring the plaintiff's recovery. However, courts have rejected this argument because the legislative enactments do not impose an express duty to wear the belts. Since there is not an express statutory use requirement, the failure to wear a seat belt does not violate the installation statute and the non-use of a seat belt is not negligence per se.[26]

Proximate Cause

Assuming that the plaintiff failed to conform to the standard of care of a reasonable man under like circumstances, does it necessarily follow that the plaintiff's negligence will bar his recovery? The answer is no, and the reason is the doctrine of proximate cause.

Proximate cause requires the existence of some reasonable connection between the negligent conduct and the injury suffered.[27] All attempts to devise a universal formula to determine when such a reasonable connection does in fact exist have been fruitless.[28] Proximate cause is the sum total of all those considerations of policy, reason and justice which compel some limitation on a person's legal responsibility for the consequences of his act.[29]

In establishing proximate cause in automobile accident cases, it is essential to distinguish between negligence contributing to the accident and negligence contributing to the damage sustained. Contributory negligence requires negligence which contributes to the accident, having a causal connection with it. An act or omission that merely increases or adds to the extent of the loss or injury occasioned by another's negligence is not such contributory negligence as will defeat a recovery.[30]

Even though the reasonable man standard of care may require an actor to wear a seat belt, the non-use of a seat belt will not bar a plaintiff's recovery unless the defendant can also prove a causal connection between the failure to use seat belts and the resulting accident. It has been held that a failure to use a seat belt is not contributory negligence such as would bar all recovery because the failure to wear a belt did not contribute in any way to the causation of the accident.[31] This has been particularly true where the injured plaintiff was a passenger with no physical control over the vehicle's operation.[32]

The requirement that the causal connection relate to the accident, as opposed to relating merely to the injury, is not an absolute doctrine. There have been inroads in other areas of the law imposing civil liability where the negligence merely exacerbated the injuries rather than causing the injury.[33]

The prevailing view, however, seems to be that while the non-use of a seat belt may aggravate a plaintiff's injuries and thus be relevant to the mitigation of damages issue (see the discussion under MITIGATION OF DAMAGES, infra), the non-use of a seat belt may not be the basis for a contributory negligence defense unless the defendant can show a proximate cause between the plaintiff's negligence and the accident. In Spier v. Barker, the plaintiff driver was thrown from her car and pinned beneath her automobile immediately after being struck by a tractor-trailer driven by the defendant. At trial, the defendant called an expert witness who, after viewing photographs of the vehicles, stated that had the plaintiff been wearing a seat belt, she would not have been ejected from her automobile, and that had she not been ejected, she probably would not have been seriously injured. One of the issues on appeal was whether the non-use of an available seat belt constituted contributory negligence. The court rejected this defense because the non-use of the seat belt was not the proximate cause of the accident.[34]

The requirement that an act or ommission must be the proximate cause of the accident for contributory negligence to be established will be a difficult burden in the seat belt cases. While the non-use of a seat belt may aggravate injuries received in an automobile collision, rarely have the courts been faced with situations in which the failure to use a seat belt caused the accident. And, in fact, of the seat belt cases examined, no court has found the requisite causal connection necessary to allow the defense of contributory negligence.

MITIGATION OF DAMAGES

The issue of the use or non-use of seat belts has had a greater impact on the matter of damages than on the question of liability.[35] This section of the Commentary reviews court decisions that have examined the non-use of seat belts as it relates to damages.

Avoidable Consequences

In terms of the damage question, the seat belt problem does not fit easily into any standard legal classifications. The doctrine of avoidable consequences appears most nearly relevant to the problem. Under this doctrine, recovery is

denied for any damages which could have been avoided by reasonable conduct on the part of the injured party.[36] A person injured by the negligence of another has a duty to use reasonable care to obtain treatment for his injuries to mitigate his damages, for example. The doctrine is closely related to contributory negligence except that avoidable consequences usually involve unreasonable conduct after the injury while contributory negligence usually refers to conduct which occurs before and contributes to the injury.[37]

Unfortunately, the failure to fasten a seat belt always occurs prior to the injury, and thus the seat belt problem is not clearly covered by the doctrine of avoidable consequences. Nevertheless, some courts treat a failure to use seat belts as an avoidable consequence problem, holding that a failure to wear available seat belts which results in an aggravation of injuries may result in a reduction of recoverable damages.[38]

Distinguishing the Damage and Liability Questions

In the previous discussion on contributory negligence and the causal connection required to make out such a defense, it is as noted that a 1974 New York case, Spier v. Barker, refused to allow the introduction of the non-use of a seat belt to establish contributory negligence.[39] This same court, however, held that the trial court could properly submit the seat belt issue to the jury if the use of the evidence was limited to the issue of damages. In justifying the application of the avoidable consequences theory to the seat belt defense, the court stated that the seat belt affords the automobile occupant an unusual and ordinarily unavailable means by which he or she may minimize his or her damages prior to the accident.[40]

Decisions in Illinois courts illustrate the importance of distinguishing between the non-use of seat belts in establishing liability and non-use as it related to the mitigation of damages. Mount v. McClellan was one of the first Illinois cases to distinguish the two uses of seat belt evidence at trial. In Mount, the court allowed the jury to consider evidence that the plaintiff's car was equipped with seat belts but the court stated that the evidence should be limited to the damage issue of the case and should not be considered by the trier of facts in determining the liability issue.[41]

Subsequent Illinois courts followed the lead of Mount in rejecting the use of seat belt evidence to establish contributory negligence but allowing it for the purpose of mitigating damages.[42] Appellate courts have overturned jury verdicts where it appeared that the jury may have confused the issues of contributory negligence and mitigation of damages.[43]

A federal court applying Virginia law made this distinction to preclude the application of a Virginia statute providing that failure to use seat belts "shall not be deemed to be negligence."[44] The court ruled that the statute prohibited use of seat belt evidence on the question of negligence but did not preclude the use of such evidence in the mitigation of damages.[45] Statutory provisions like the Virginia law are discussed in greater detail under a separate heading later in the Commentary.

Causal Connection

To establish a proper foundation for the mitigation of damages, courts generally require evidence establishing a causal relationship between the failure to wear seat belts and the injuries sustained.[46] In the Spier case, supra, the court said that seat belt evidence should not be submitted to the jury unless the defendant can demonstrate, by competent evidence, a causal connection between the plaintiff's non-use of an available seat belt and the injuries and damages sustained.[47] Courts in Illinois have reached the same conclusion. In Hale v. Cravens, the court held that "an instruction as to the existence or nonexistence, use or non-use of a seat belt would be proper with reference to damages only when the record establishes by competent evidence that the damages might have been mitigated if a seat belt had been in existence and used.[48]

Courts have held that there must be evidence that the vehicle was equipped with seat belts,[49] there must be proof that the plaintiff was not wearing a seat belt at the time of the accident,[50] and there must be evidence that the plaintiff's damages might have been mitigated by the use of seat belts.[51]

In 1975, an Illinois court in Eichorn v. Olson established a two-fold test for determining whether to instruct the jury on the seat belt issue. The evidence must (1) show that the plaintiff failed to wear an available seat belt, and (2) establish a causal connection between the injuries and damages sustained.[52]

The plaintiff in Eichorn drove his automobile into the rear of the defendant's vehicle, which had run out of gas on the highway. The defendant's employee had been pushing the car on the highway. At trial, the plaintiff testified he was not wearing a seat belt but that he could not remember whether his car was equipped with seat belts. The trial court refused to instruct the jury on the non-use of seat belts in the mitigation of damages. The appellate court held that an instruction on the seat belt issue would have been improper since the defendant showed only that the plaintiff failed to buckle-up.[53]

While the seat belt evidence was not admissible in Eichorn, a later court in Dudanas v. Plate allowed such evidence using the Eichorn test.[54] In Dudanas, the plaintiff was suing for injuries sustained by her daughter in a collision between the automobile driven by the defendant and a vehicle driven by the plaintiff. Because of the collision, the daughter, who was not wearing an available seat belt, was thrown forward into the windshield. At trial, the plaintiff called an expert witness who stated that the minor would have hit the windshield even if she had been wearing a seat belt. On cross-examination the witness stated that the top of the head would have impacted the windshield and that there might have been a slight reduction in the speed at which she hit the windshield. The defendant presented no witness in the seat belt issue. The trial court instructed the jury on the non-use of seat belts and the mitigation of damages. The appellate court stated that the issue was whether the testimony of plaintiff's seat belt expert constituted competent evidence of a causal connection between non-use of available seat belts and the injuries and damages sustained. While the court noted that none of the previous Illinois cases had decided what constituted competent evidence, the court held that the evidence here satisfied the two-fold test set forth in Eichorn. Since the expert witness testified that the top of the daughter's head, rather than her face, would have struck the windshield had she worn a seat belt, the court felt that the jury reasonably could have concluded that it should not award damages for the facial injuries.[55]

The Dudanas case also points out the importance of expert testimony in seat belt cases. Expert testimony is generally required to establish the extent to which injuries were aggravated by the failure to use seat belts.[56]

While one court has not allowed a seat belt instruction where there was no medical evidence upon which to apportion damages, later courts have not required medical evidence if other types of expert testimony have been given.[57] For example, one court has held that the testimony of a professor of mechanical and aerospace engineering who had been employed in the field of accident reconstruction was sufficient.[58] In the Dudanas case, the testimony of a consultant on automotive safety provided sufficient evidence from which the jury could apportion damages. However, in one case, the testimony of the investigating police officer was not sufficient expert testimony upon which to establish the necessary causal connection.[59]

Even in jurisdictions that allow an apportionment of damages it is recognized that such an apportionment is a difficult and highly speculative task, and the defendant has a heavy burden of proof regarding the effect of the failure to use the belts on the injury.[60] Several courts have refused to apportion damages on the basis of speculation in the absence of such evidence.[61] The plaintiff has recovered for all his injuries in several cases where the injuries were not separable.[62]

One court has refused to allow the jury to apportion damages in a situation where the passenger was killed in the accident. The court felt that it would be inappropriate to allow the jury to speculate on dividing damages in such a case.[63] Another court has refused to allow seat belt evidence in a case involving death because it felt to do so would create extremely difficult problems of measuring damages.[64]

Yet recent courts, even where the suit has been brought on behalf of a party killed in the accident,[65] have allowed a jury to apportion damages despite the objection that apportionment is too speculative.[66] One court has commented that the argument against apportionment underestimates the abilities of those trained in accident reconstruction and that the argument fails to recognize other areas of the law in which apportionment is allowed.[67]

Comparative Negligence

An increasing number of jurisdictions have adopted the concept of comparative negligence to ameliorate the harsh, all-or-nothing rule of contributory negligence.[68] This part of

the Commentary will examine how the emergence of the doctrine of comparative negligence has affected the availability of the seat belt defense in civil litigation.

Comparative negligence is a fault concept that apportions liability for damages in proportion to the contribution of each person causing the injury or damages. More simply, if several parties are responsible for an accident, then the liability for damages is divided among the parties according to the fault attributable to each. The doctrine abrogates the common law concept of contributory negligence and substitutes apportionment by fault.[69]

For the seat belt defense, the critical issue in comparative negligence is whether apportionment is made by comparing only the negligence which contributed to the accident itself, or also the negligence which contributed only to the injuries.[70] This determination is critical because non-use of a seat belt rarely causes the accident itself.

In the seat belt cases decided under the contributory negligence standard, one often cited basis for rejecting the seat belt defense was that the failure to wear the belt did not cause the accident. Some courts were also reluctant to apply the avoidable consequence theory in mitigating damages because of the time factor. The doctrine of avoidable consequences traditionally involves unreasonable conduct <u>after</u> the injury, but the failure to fasten a seat belt is conduct which occurs <u>prior</u> to the injury. Comparative negligence may obviate both of these problems for the seat belt defense, or it may not, depending on how it is interpreted by the courts.

The Restatement (Second) of Torts comments that damages may be apportioned between the defendant and plaintiff "where the antecedent negligence of the plaintiff is found not to contribute in any way to the original accident or injury, but to be a substantial contributing factor in increasing the harm which ensues."[71] Should this view be adopted, non-use of seat belts could constitute fault in a comparative negligence jurisdiction, resulting in an apportionment of damages. The effect of this kind of comparative negligence is to merge the doctrine of avoidable consequences into the liability question.

On the other hand, the comparative negligence analysis may be limited, just as the contributory negligence analysis generally

has been, to only that negligence which contributed in some way to the accident itself, rather than just affecting the resulting injuries. Under this approach, the avoidable consequences doctrine is not merged into the liability question, but remains a separate issue.

The doctrine of comparative negligence is usually created by statute, although in some states it has been adopted by judicial decision.[72] Whether the comparative negligence analysis will or will not include the avoidable consequences type of fault depends primarily upon the language of the statute adopting comparative negligence.

For example, the Uniform Comparative Fault Act, as approved by the National Conference of Commissioners on Uniform State Laws in 1977, definitely and specifically includes the avoidable consequences type of fault within the comparative negligence analysis.[73] The Uniform Act provides that,

> [A]ny contributory fault chargeable to the claimant diminishes proportionately the amount awarded as compensatory damages for an injury attributable to the claimant's contributory fault, but does not bar recovery.[74]

The Act defines the term "fault" to specifically include, "unreasonable failure to avoid an injury or to mitigate damages.[75]

The Comments to the Uniform Act, under the subheading, Conduct Covered, specify that, "The doctrine of avoidable consequences is expressly included in the coverage."[76] Under the subheading, Causation, the Comments provide the following explanation, using non-use of a seat belt as an example:

> "Injury attributable to the claimant's contributory fault" refers to the requirement of a causal relation for the particular damage. Thus, negligent failure to fasten a seat belt would diminish recovery only for damages in which the lack of a seat-belt restraint played a part, and not, for example, to the damage to the car. A similar rule applies to a defendant's fault; a physician, for example, negligently setting a broken arm, is not liable for other injuries received in an automobile accident.[77]

This makes it clear not only that the comparative fault analysis will consider fault which contributed to injuries although not necessarily to the accident itself, but also that damages will be apportioned, where possible, by directly connecting particular injuries to their causal element.

No state has adopted the Uniform Act, but some states have adopted a form of comparative negligence which may include the avoidable consequences type of negligence in their concept of "fault." The Arkansas statute, for example, defines "fault" as follows:

> The word "fault" as used in the Act includes any act, omission, conduct, risk assumed, breach of warranty or breach of any legal duty which is a proximate cause of any damages sustained by any party.[78]

The Maine statute contains a similar definition:

> Fault means negligence, breach of statutory duty or other act or omission which gives rise to a liability in tort or would, apart from this section, give rise to the defense of contributory negligence.[79]

The New York statute refers to the "culpable conduct" of the claimant, and it is clear that "culpable conduct" encompasses more than just contributory negligence since contributory negligence is specifically included in the term. The law provides as follows:

> In any action to recover damages for personal injury, injury to property, or wrongful death, the culpable conduct attributable to the claimant or to the decedent, including contributory negligence or assumption of risk, shall not bar recovery, but the amount of damages otherwise recoverable shall be diminished in the proportion which the culpable conduct attributable to the claimant or decedent bears to the culpable conduct which caused the damages.[80]

The Rhode Island statute does not use the term "fault." It provides as follows:

> [T]he fact that the person injured . . . may not have been in the exercise of due care shall not bar a recovery, but damages shall be diminished by the finder of fact in proportion to the amount of negligence attributable to the person injured . . . .[81/]

All of these statutes use language which could be interpreted as including the avoidable consequences kind of fault in the concept of comparative negligence. Unfortunately there have been no cases which have effectively interpreted the laws on this point.

The one recent seat belt case we have located in these states is inconclusive.

In Harlan v. Curbo, the Supreme Court of Arkansas addressed the seat belt issue briefly in a comparative negligence case, but it was not the principal issue in the case, and the decision may create more questions than it answers in regard to the seat belt defense.[82/] The court ruled that it was error for the trial court to instruct the jury that on the question of the plaintiff's negligence it could take into consideration the fact that seat belts were available for the plaintiff's use. The trial court had already given a standard jury instruction regarding the duty of all persons involved in the occurrence to use ordinary care for their own safety. The supreme court held that the additional jury instruction relating to seat belts not only was an unnecessary duplication but also singled out a particular fact for undue emphasis. But these are the only reasons cited by the court for ruling that the seat belt instruction constituted error.

The trial court had allowed evidence that the seat belts were available and were not in use. The supreme court did not find this to constitute error; it is not clear from the decision that the court even considered the question. Apparently, it would have been proper for the jury to consider the plaintiff's failure to use seat belts under the general instruction relating to the duty to use ordinary care for one's own safety. Nor does the decision specify that expert testimony linking the failure to use the seat belts with the plaintiff's injuries would be required. Again, that issue is not specifically addressed by the decision.

To further complicate the case, the trial court had ruled, as a matter of law, that one of the plaintiffs, a passenger in the vehicle, was not guilty of any negligence. The trial court did not make such a ruling as to the other plaintiff, the driver

of the vehicle, however. Thus, the jury was free to find the driver-plaintiff negligent, and the failure to wear an available seat belt could constitute an element of such negligence. But the jury was not free to make such a finding as to the passenger-plaintiff, although there was evidence that neither the driver nor the passenger wore the available belts. The supreme court did not find this distinction to constitute error. Does this suggest that a driver has a greater duty to wear an available belt for his own protection than does a passenger?

Most of the states which have adopted comparative negligence have used the term "contributory negligence" in their statutes. The laws typically provide that contributory negligence on the part of the plaintiff shall not bar recovery, but any damages allowed must be diminished in proportion to the plaintiff's negligence. In states with laws of this type, it is likely that the courts will simply apply all the old precendent relating to contributory negligence. The laws will be seen as not changing the substance of contributory negligence, but only its effect.[83/] Acts or omissions on the part of the plaintiff which formerly constituted contributory negligence will now result in an apportionment of damages rather than a bar to any recovery. But acts or omissions which formerly would not have constituted contributory negligence, such as the avoidable consequences type of negligence, will still not constitute contributory negligence.

Connecticut is a good example. The comparative negligence statute provides as follows:

> In causes of action based on negligence, contributory negligence shall not bar recovery in an action by any person or his legal representative to recover damages resulting from injury to persons or damage to property, if such negligence was not greater than the combined negligence of the person or persons against whom recovery is sought, but any damages allowed shall be diminished in the proportion of the percentage of negligence attributable to the person recovering.[84/]

A superior court in Connecticut has ruled in a seat belt case that this statute does not purport to alter the prior law as to proximate cause.[85/] The well established rule of causation in Connecticut is that contributory negligence must be an act or omission which contributes to the happening of the event. An

act or omission that merely increases or adds to the extent of the loss or injury is not contributory negligence. The court ruled that the failure to use a seat belt in this case could not, as a matter of law, have contributed to the happening of the accident. Thus no diminution of damages was allowed on the basis of the seat belt defense.[86]

A federal court applying Mississippi law has reached the same conclusion. Since there was no causal connection shown between the negligence, the failure to use seat belts, and the injuries to the plaintiff, no dimunition of damages was required under the comparative negligence law.[87]

The Texas Court of Appeals reached a similar conclusion on the causation issue, although the case did not involve the seat belt defense.[88] The Texas comparative negligence statute is similar in substance to the Connecticut law.[89] The defendant in the case asserted that under the comparative negligence law the plaintiff's negligence need not be a proximate cause of the occurrence in order to require a diminution of damages. The court, noting that it must consider the condition of the law at the time the statute was enacted, ruled that the words "contributory negligence" in the statute mean such negligence as was a proximate cause of the occurrence in question.[90]

Wisconsin, on the other hand, has a comparative negligence statute similar in relevant ways to the Connecticut and Texas statutes.[91] But the Wisconsin Supreme Court has ruled in Bentzler v. Braun that the question is not whether the negligence contributed to the cause of the accident, but rather whether it contributed to the injuries.[92] It is up to the jury to decide, as in any other case of negligence, whether the failure to use an available seat belt was a substantial factor in producing the injury. The court indicated that there must be evidence before the jury to show a causal relationship between the injuries sustained and the failure to use seat belts. Where there is such evidence, a jury could conclude that an occupant of an automobile was negligent in failing to use the seat belt. Such negligence on the part of the plaintiff would result in a diminution of damages recoverable by the plaintiff under the Wisconsin comparative negligence statute.

The Wisconsin decision is not based upon an analysis of the comparative negligence law. Rather it relies upon legal doctrines relating to causation. The Wisconsin court might have reached the

the same conclusion even if Wisconsin did not have a comparative negligence statute. On the other hand, since the comparative negligence statute ameliorates the harsh consequences of the contributory negligence rule, it may have made it easier for the court to rule that there is a duty to wear the belts, and that the breach of the duty can constitute negligence if it contributed to the injury, even if it did not cause the accident itself.

The Supreme Court of the State of Washington has not been persuaded by that viewpoint, however. In Amend v. Bell, the defendants pointed out that the Washington comparative negligence law avoids the harsh consequences of contributory negligence which would bar all recovery.[93] Because of this, the defendants urged, prior case law on the seat belt defense had been abrogated. The court rejected the argument, noting that while the results of contributory negligence and comparative negligence are much different, both are still premised upon negligence. In the one case the negligence bars recovery, while in the other the negligence is compared and potentially reduces damages. But in either case there is no negligence without breach of a legally imposed duty. The court declined to impose a duty on all persons riding in vehicles to use available seat belts. Such a duty would require the plaintiff to anticipate the defendant's negligence in causing the accident. The plaintiff should have a duty to fasten his seat belt prior to an accident only if it can be said that the plaintiff should have anticipated that the defendant would negligently cause the accident.

DIRECT NEGLIGENCE

While most of the seat belt cases have involved the issue of whether a defendant can reduce or avoid liability to a plaintiff who has failed to wear a seat belt, one case has examined the issue of whether the non-use of a seat belt may form the basis for a direct negligence cause of action against the defendant.

In Quinius v. Estrada, vehicle A negligently collided with vehicle B, causing the unbelted driver of vehicle B to lose control, whereupon vehicle B collided with vehicle C. It was argued that had the driver in vehicle B been wearing her available seat belt, the second collision would not have occurred, and that the driver of vehicle B was, therefore, under a duty to the driver of vehicle C to wear the belt. The court held that there was no duty to wear seat belts because it was not reasonably foreseeable that

a failure to use a seat belt would result in a failure to regain control after a collision negligently caused by another. The court refused to recognize the crash prevention potential of a driver's lap belt, noting that the wearing of seat belts has relevance only to the safety of the person wearing the belt. The court took judicial notice of this fact as a matter of general knowledge.[94]

Despite the dictum of the Quinius court concerning the crash prevention potential of seat belts, there is evidence that the use of seat belts by drivers can prevent collisions or injuries to other persons. Accident investigations have uncovered other instances where the driver was ejected from his seat in a collision resulting in a second collision and further injuries to others.[95]

PRODUCT LIABILITY CASES

The concept of product liability or strict liability in tort has rapidly emerged as a means of imposing civil liability in addition to the theory of negligence.

In a 1963 case, the strict liability doctrine was defined as follows:

> A manufacturer is strictly liable in tort when an article he places on the market, knowing that it is to be used without inspection for defects, proves to have a defect that causes injury to a human being.[96]

To impose civil liability based on strict or product liability the injured plaintiff does not have to prove that the manufacturer was negligent but he must prove that the manufacturer was at fault.[97] That is, the plaintiff must show that the product was defective, and he must show that the manufacturers produced a product in a condition justifying liability for the ensuing injury.[98] Product liability relieves the plaintiff from problems of proof inherent in pursuing negligence.[99] However a manufacturer is not an insurer.[100] A manufacturer is not liable for every occurrence involving its product but only for the injuries attributable to the defects of the product.[101]

Is contributory negligence a defense to an action based on product liability? The prevailing view is that ordinary contributory negligence is not a defense to an action based on strict

liability.[102] Contributory negligence will be a defense, however, if the negligence consists of voluntarily and unreasonably proceeding to encounter a known danger.[103] This defense is commonly referred to as assumption of the risk.[104]

While ordinary contributory negligence is not a defense, the unintended, unforeseeable misuse of a product will constitute a valid defense to a strict liability action.[105] That is, if the product is put to a use by the consumer that is not reasonably foreseeable, then strict liability will not be imposed.[106]

The issue of the availability of the seat belt defense in product liability cases has only recently begun to be examined. In Horn v. General Motors Corp., the plaintiff brought a products liability suit against an automobile manufacturer for injuries received due to a defective horn cap.[107] While the injuries were incurred in an accident that was not the fault of the manufacturer, the plaintiff sought recovery for injuries sustained when, as a result of the horn cap coming off, sharp prongs beneath the cap scarred her face.

While the manufacturer conceded that contributory negligence was not a defense to an action based on strict liability, it still attempted to introduce evidence of the non-use of an available seat belt, alleging: (1) that by not wearing a seat belt the plaintiff assumed the risk of her injuries; (2) that the non-use of a seat belt was the proximate cause of the injuries; and (3) that the plaintiff's automobile was misused.

The court rejected the defense of assumption of the risk because there was no evidence that the plaintiff was aware of the defect or that she knew her failure to use a seat belt would expose her to the risk of injury from the prongs beneath the horn cap. The court said that at best the evidence indicated some negligence of a general nature on the plaintiff's part in not using the seat belt.[108]

The court also rejected the defendant's claim that the seat belt evidence would tend to show that the plaintiff's failure to use a seat belt was the proximate cause of her injuries. The court said that this was nothing more than a restatement of the inadmissible defense that the plaintiff's negligence in not using a seat belt contributed to or was a contributing cause of the accident.[109]

Finally, the court rejected the defendant's third argument that the product -- the plaintiff's automobile -- was misused. While the court recognized that strict liability should not be imposed if the product is put to a use not reasonably foreseeable, the court said that the driving of an automobile without using a seat belt is an entirely foreseeable use of the vehicle.[110]

Three other courts have refused to allow the defense of contributory negligence based on the non-use of an available seat belt because contributory negligence is no defense to a cause of action based on strict liability.[111] Two of these courts, though, have stated that seat belt evidence is admissible in the mitigation of damages if the defendant can establish by competent evidence a causal connection between the alleged negligence and the injuries sustained.[112]

It is too early to speculate on the impact that the comparative negligence doctrine will have on the availability of the seat belt defense in product liability cases.

The development of the product liability doctrine in cases other than those dealing with seat belts may alter the view of courts on the issue of whether a person has a duty to wear seat belts. In a 1968 product liability case not concerned with the use of seat belts, a court held that a manufacturer could be liable for damages caused by a defective design even though the defect did not cause the original accident. The court stated that there was "no rational basis . . . for limiting recovery to situations where the defect . . . was the causative factor of the accident, [since] the accident and the resulting injury . . . the so-called 'second collision' of the passenger with the interior part of the automobile, all are foreseeable."[113] Based on this case, commentators have argued that if manufacturers must anticipate or "foresee" collisions, then automobile occupants may also be under a duty to foresee the same occurrence, and thus be required to fasten a safety belt.[114] However none of the seat belt cases examined have adopted this view.

STATUTORY PROVISIONS REGARDING THE SEAT BELT DEFENSE

One other factor affecting the seat belt defense must be considered. As we have already noted, one is generally held to the standard of a reasonable man in determining whether certain conduct creates an unreasonable risk of harm.[115] When the legislature enacts a statute, however, it dictates a standard of conduct

to which all must conform. A violation of such a statute is negligent conduct.[116]

The Uniform Vehicle Code now includes a requirement that drivers and passengers use available lap and shoulder belts.[117] The Code also includes a section specifying the effect of non-use in civil litigation. It provides that failure to use any belt in violation of the requirements "shall not diminish recovery for damages" in any civil suit.[118]

Without this "non-use" provision, the Code requirements for use, if enacted by a state, would constitute a legislative determination of the standard of conduct required for one's own protection. Failure to conform to that standard could constitute negligence as a matter of law. The "non-use" provision removes that impact from the law. But the "non-use" subsection goes beyond that. It precludes any diminution of damages for failure to wear a seat belt, even if the court concludes that the person had a duty apart from the statute to wear the belt. The "non-use" provision completely obviates the seat belt defense under all circumstances.

No state has a law generally requiring all vehicle occupants to use available seat belts. Five states, however, do require the use of belts by certain occupants of specific kinds of vehicles:

California	New York	Tennessee
Massachusetts		Rhode Island

The California law provides that it is unlawful for any driver or passenger in a driver training vehicle to operate or ride in such vehicle while it is being used for driver training without using an available seat belt in the proper manner.[119] The Massachusetts and New York laws make it illegal for the driver of a school bus to operate without using an available seat belt.[120] The Rhode Island law applies to every person driving a bus (including school bus), trolley or authorized emergency vehicle. The law requires that such a driver "use and have his body anchored by" an available seat belt.[121] The Tennessee law requires the parent or legal guardian of a resident child under the age of four years to be responsible, when transporting the child in a motor vehicle owned by the parent or guardian, to either place the child in the arms of an older person riding as a passenger, or place the child in a proper child restraint system.[122]

Of the five laws discussed above, only the Tennessee law includes a "non-use" provision. It specifies that in no event will a failure to wear a child restraint system be considered contributory negligence, and evidence of any such failure is inadmissible in the trial of any civil action.[123]

The use requirements in the California, Massachusetts, New York and Rhode Island laws probably represent a legislative determination of the required standard of care. Failure to comply with that standard could constitute negligence as a matter of law.

In addition to the Tennessee provision already discussed, five states have "non-use" provisions which, to varying extents, would obviate the seat belt defense. Except for Tennessee, these states do not have any statutory requirements to use seat belts. In each case the "non-use" provision is part of a requirement that certain vehicles merely be equipped with seat belts. The five states are:

Iowa	Minnesota	Tennessee
Maine		Virginia

The Iowa law provides in relevant part as follows:

> The fact of use, or nonuse, of seat belts by a person shall not be admissible or material as evidence in civil actions brought for damages.[124]

This law would completely preclude the seat belt defense since evidence of non-use, or even of use, is inadmissible.

The Maine law provides in relevant part as follows:

> In any accident involving an automobile, the nonuse of seat belts by the driver of or passengers in the automobile shall not be admissible in evidence in any trial, civil or criminal, arising out of such accident.[125]

Note that the law applies only to the non-use of seat belts in an "automobile." Like the Iowa law, it makes evidence of non-use inadmissible.

The Minnesota law provides in relevant part as follows:

> Proof of the use or failure to use seat belts, or proof of the installation or failure of installation of seat belts shall not be admissible in evidence in any litigation involving personal injuries or property damage resulting from the use or operation of any motor vehicle.[126]

The effect is much like the Iowa law. Evidence is inadmissible on the matter of seat belts.

In addition to the Tennessee law already discussed which applies to the child restraint requirement, Tennessee has the following provision:

> Provided that in no event shall failure to wear seat belts be considered as contributory negligence, nor shall such failure to wear said seat belt be considered in mitigation of damages on the trial of any civil action.[127]

This section does not make evidence of seat belt use inadmissible, but does effectively obviate the seat belt defense.

The Virginia law provides in relevant part as follows:

> Failure to use such safety lap belts or a combination of lap belts and shoulder straps or harnesses after installation shall not be deemed to be negligence.[128]

A failure to wear seat belts under this law, although not negligence, might be considered in mitigation of damages. A federal court interpreting this law reached just that conclusion.[129] Thus, the Virginia law does not completely obviate the seat belt defense.

SUMMARY

1. Most of the cases involving the non-use of automobile safety belts in civil litigation have examined the issue of whether an injured plaintiff who failed to use his seat belt may be barred from recovery under the contributory negligence doctrine. The primary issue in these cases is whether there is a duty to wear seat belts for one's own protection.

2. A few courts have held that there is a duty to wear a seat belt based on the common law standard of the reasonable man. A few other courts have stated that a duty may exist under certain limited circumstances. But most of the decisions have held that in the absence of a statute requiring use there is no duty to wear an available seat belt. Many courts point to the statistics showing low level of seat belt usage to support their conclusion. Absent a duty to wear seat belts, the failure to wear them will not constitute contributory negligence.

3. Even when there is a duty to wear seat belts, the defense of contributory negligence will not be allowed unless it is shown that the non-use of the belt was a cause of the accident. This requirement will preclude the defense of contributory negligence in most cases because, while the failure to wear seat belts may aggravate injuries, rarely has such non-use been the cause of the accident. No court has allowed the seat belt defense to completely bar the plaintiff's recovery under the doctrine of contributory negligence.

4. Although courts have held that failure to wear seat belts does not constitute contributory negligence which will bar all recovery, non-use of seat belts may result in a reduction or mitigation of damages under the theory of avoidable consequences. For the non-use of seat belts to result in the mitigation of damages, the defendant must establish by competent evidence a causal connection between the plaintiff's failure to use an available seat belt and his resulting injuries. This usually requires the introduction of expert testimony. Courts generally refuse to apportion damages on the basis of speculation.

5. Some courts do not allow the failure to use seat belts to be considered under the doctrine of avoidable consequences because the failure to buckle-up always occurs before the accident happens. The doctrine of avoidable consequences has traditionally been limited to the injured person's conduct after the accident.

These courts are unwilling to mitigate the plaintiff's damages on the grounds that he failed to anticipate the negligence of the defendant.

6. An increasing number of jurisdictions have adopted comparative negligence in place of contributory negligence. Comparative negligence apportions damages on the basis of relative fault instead of completely barring recovery by a negligent plaintiff. Whether the non-use of a seat belt will result in an apportionment of damages under the theory of comparative negligence depends on the type of comparative negligence adopted in a particular jurisdiction. If a jurisdiction adopts a concept of comparative negligence which incorporates avoidable consequences, as does the Uniform Comparative Fault Act, then the seat belt defense may result in an apportionment of damages. But most of the states' comparative negligence laws do not seem to have this effect. Although there have been few cases interpreting this aspect of the comparative negligence laws, the language of the most of the laws suggests that only such fault as contributed to the accident itself will constitute comparative negligence, requiring an apportionment of damages. Fault which exacerbates injuries but does not contribute to the accident itself, such as failure to wear seat belts, probably will not constitute comparative negligence.

7. The difficulty of using the seat belt defense is compounded in product liability cases because contributory negligence is not a defense to an action based on strict liability. The impact of comparative negligence on product liability cases remains to be seen. Future cases may turn on the issue of whether the failure to wear a seat belt constituted a misuse of the manufacturer's product, which, if established, would be a valid defense.

8. Statutory provisions can have an enormous impact on the seat belt defense. Laws requiring the use of seat belts establish a standard of care to which all must conform. Failure to meet this standard would be negligence, as a matter of law. Such laws establishing a duty to wear seat belts would be a substantial assist for the seat belt defense since most of the cases have found that such a duty does not now exist. On the other hand, statutes which specify that evidence of non-use of seat belts is inadmissible, or that non-use does not constitute negligence or cannot be used to mitigate damages completely obviate the seat belt defense. Although no state has a law generally imposing a duty on all vehicle occupants to use belts, several states have laws specifying the effect of non-use in civil litigation.

FOOTNOTES

1/ "Laws Requiring Seat Belts," Traffic Laws Commentary, Vol. 1, No. 6, pp. 22-6 (October 1972).

2/ See 7 AM. JUR. 2d, Automobiles and Highway Traffic § 361 (1963).

3/ W. PROSSER, HANDBOOK OF THE LAW OF TORTS §§ 30 and 64 (3rd ed. 1964) [hereinafter cited as W. PROSSER]; RESTATEMENT (SECOND) OF TORTS § 464 [hereinafter cited as RESTATEMENT].

4/ W. PROSSER § 53; RESTATEMENT § 282.

5/ W. PROSSER § 50; RESTATEMENT § 281.

6/ Palsgraf v. Long Island R.R., 248 N.Y. 339, 133 N.E. 437 (1928).

7/ W. PROSSER § 32; RESTATEMENT § 281.

8/ W. PROSSER § 64; RESTATEMENT § 464.

9/ Bentzler v. Braun, 34 Wis.2d 362, 142 N.W.2d (1967); see also, Mays v. Dealers Transit, Inc., 441 F.2d 1344 (7th Cir. 1971) (wearing of seat belts is sufficiently involved in the matter of exercise of reasonable care as to be an issue of common law negligence under proper circumstances); Truman v. Vargas, 80 Cal. Rptr. 373 (Cal. App. 1969) (it was a question of fact whether in the exercise of ordinary care a seat belt should have been used); Sams v. Sams, 247 S.C. 467, 148 S.E.2d 154 (1966) (allegation of contributory negligence based on failure to use seat belts should not have been stricken from pleadings); Sonnier v. Ramsey, 424 S.W.2d 684 (Tex. Civ. App. 1968) (court specifically reserved for future decision whether there is a duty to use belts, but upheld a jury decision that reasonably prudent person in plaintiff's position in this case would have used belt).

10/ 34 Wis.2d 362, 142 N.W.2d 626 (1967). Despite this language, the court allowed the plaintiff to recover for his damages because there was no proof of a causal connection between the injuries sustained and the failure to use a seat belt. Id. at 387, 149 N.W.2d at 640.

11/ 28 Conn. Supp. 289, 259 A.2d 145 (Conn. Super. Ct. 1969).

12/ Clark v. State, 28 Conn. Supp. 398, 264 A.2d 366 (Conn. Super. Ct. 1970).

13/ Melesko v. Riley, 32 Conn. Supp. 89, 339 A.2d 479 (1975).

14/ Fields v. Volkswagen of America, Inc., 555 P.2d 48 (Okla. 1976); Nash v. Kamrath, 21 Ariz. App. 530, 521 P.2d 161 (1974); Fischer v. Moore, 183 Colo. 392, 517 P.2d 458 (1973); Hotchkiss v. Preble, 33 Colo. App. 431, 521 P.2d 1278 (1974); Placek v. Sterling Heights, 52 Mich. App. 619, 217 N.W.2d 900 (1974); King Son Wong v. Carnation Co., 509 S.W.2d 385 (Tex. Ct. App. 1974); McCord v. Green, 362 A.2d 720 (D.C. App. 1976); Derheim v. Fiorito, 80 Wash. 2d 161, 492 P.2d 1030 (1972); Selgado v. Commercial Warehouse, 88 N.M. 579, 544 P.2d 719 (1975); Britton v. Doehring, 286 Ala. 498, 242 So.2d 666 (1970); Clark v. State, 28 Conn. Supp. 398, 264 A.2d 366 (Conn. Super. 1970); Remington v. Arndt, 38 Conn. Supp. 289, 259 A.2d 145 (Conn. Super. 1969); Lipscomb v. Damiani, 226 A.2d 914 (Del. Super. 1967); Brown v. Kendrick, 192 So.2d 49 (Fla. App. 1966); Hampton v. State Highway Comm., 498 P.2d 236 (Kansas 1972); Cierpisz v. Singleton, 230 A.2d 629 (Maryland 1967); Romankewiz v. Black, 16 Mich. App. 119, 167 N.W.2d 606 (1969); Barry v. Coca Cola Co., 99 N.J. Super. 270, 239 A.2d 273 (1967); Miller v. Miller, 273 N.C. 228, 160 S.E.2d 65 (1968); Robinson v. Lewis, 254 Ore. 52, 457 P.2d 483 (1969); Quinius v. Estrada, 448 S.W.2d 552 (Tex. Civ. App. 1969); 61 C.J.S. Motor Vehicles §§ 462, 486(3) (1970).

In other cases courts have ruled that the use of seat belts is not relevant evidence of due care. Deaver v. Hickox, 256 N.W.2d 866 (Ill. App. 1970). Nor is a failure to use seat belts relevant evidence of lack of due care. Miller v. Haynes, 454 S.W.2d 293 (Mo. App. 1970).

15/ See, in particular, Fields v. Volkswagen of America, Inc., 555 P.2d 48 (Okla. 1976); Nash v. Kamrath, 21 Ariz. App. 530, 521 P.2d 161 (1974); Britton v. Doehring, 286 Ala. 498, 242 So.2d 666 (1970); Barry v. Coca Cola Co., 99 N.J. Super. 270, 239 A.2d 273 (1967).

16/ See, in particular, Nash v. Kamrath, 21 Ariz. App. 530, 521 P.2d 161 (1974); McCord v. Green, 362 A.2d 720 (D.C. App. 1976); Hampton v. State Highway Commission, 498 P.2d 236 (Kansas 1972); and Romankewiz v. Black, 16 Mich. App. 119, 167 N.W.2d 606 (1969).

17/ See, in particular, Hampton v. State Highway Comm., 498 P.2d 236 (Kansas 1972); McCord v. Green, 362 A.2d 720 (D.C. App. 1976).

18/ Fields v. Volkswagen of America, Inc., 555 P.2d 48 (Okla. 1976); McCord v. Green, 362 A.2d 720 (D.C. App. 1976); Romankewiz v. Black, 16 Mich. App. 119, 167 N.W.2d 606 (1969); Miller v. Miller, 273 N.C. 228, 160 S.E.2d 65 (1968).

19/ W. PROSSER § 33; Evans v. General Motors, 359 F.2d 822 (1966); contra, Larsen v. General Motors, 391 F.2d 495 (1968).

20/ 362 A.2d 720 (D.C. App. 1976).

21/ 21 Ariz. App. 530, 521 P.2d 161 (1974); see, also, Britton v. Doehring, 286 Ala. 498, 242 So.2d 666 (1970).

22/ Martin v. Herzog, 228 N.Y. 164, 126 N.E. 814 (1920); RESTATEMENT §§ 285 and 286; W. PROSSER § 35.

23/ W. PROSSER § 32; RESTATEMENT § 283.

24/ Martin v. Herzog, 228 N.Y. 164, 126 N.E. 814 (1920); see, also, Morley v. Reedsburg, 211 Wis. 504, 248 N.W. 431 (1933).

25/ For a discussion of a few state laws which specifically do require use of seat belts for a limited category of persons, see the heading, STATUTORY PROVISIONS REGARDING THE SEAT BELT DEFENSE, infra.

26/ See, in particular, Selgado v. Commercial Warehouse, 88 N.M. 579, 544 P.2d 719 (1975); Cierpisz v. Singleton, 230 A.2d 629 (Md. 1967); Miller v. Miller, 273 N.C. 228, 160 S.E.2d 65 (1968); Robinson v. Lewis, 254 Ore. 52, 457 P.2d 483 (1969).

27/ W. PROSSER § 41; RESTATEMENT § 431.

28/ W. PROSSER § 49.

29/ W.PROSSER § 49; RESTATEMENT §§ 431 and 435-461.

30/ Mahoney v. Beatman; 110 Conn. 184, 147 A. 762 (1929); see, generally, 7 AM. JUR. 2d, Automobiles and Highway Traffic § 361 (1963).

31/ See, for example, McCord v. Green, 362 A.2d 720 (D.C. App. 1976); Fields v. Volkswagen of America, 555 P.2d 48 (Okla. 1976); Spier v. Barker, 35 N.Y.2d 444, 363 N.Y.S.2d 91, 323 N.W.2d 164 (1974); Derheim v. Fiorito, 80 Wash.2d 161, 492 P.2d 1070 (1972); North v. Scheurer, 385 F. Supp. 81 (E.D.N.Y. 1968); Remington v. Arndt, 29 Conn. Supp. 289, 259 A.2d 145 (Conn. Super 1969); Jones v. Dague 252 S.C. 261, 166 S.E.2d 99 (1969); Brown v. Kendrick, 192 So.2d 49 (Fla. App. 1966); Kavanagh v. Butorac, 221 N.E.2d 824 (Ind. App. 1967); Lawrence v. Westchester Fire Ins. Co., 213 So.2d 784 (La. App. 1968); Myles v. Lee, 209 So.2d 533 (La. App. 1968); Dillon v. Humphreys, 56 Misc.2d 211, 288 N.Y.S.2d 14 (1968); Sonnier v. Ramsey, 424 S.W.2d 684 (Tex. Civ. App. 1968).

32/ See, in particular, Polynrd v. Terry, 372 A.2d 378 (1977); McCord v. Green, 362 A.2d 720 (D.C. App. 1976); Hotchkiss v. Preble, 33 Colo. App. 431, 521 P.2d 1278 (1974); Noth v. Scheurer, 285 F. Supp. 81 (E.D.N.Y. 1968); Remington v. Arndt, 28 Conn. Supp. 289, 259 A.2d 145 (Conn. Super. 1969); Kavanaugh v. Butorac, 221 N.E.2d 824 (Ind. App. 1967).

33/ In Larsen v. General Motors Corp., 291 F.2d 495 (8th Cir. 1968), the court held that a manufacturer could be liable for the negligent design of a car if it exacerbated injuries in a collision, regardless of whether the design was the cause of the collision. This case, however, concerns the doctrine of product liability, which will be discussed later in the Commentary. Section 465, Comment C, of the RESTATEMENT may also provide support for the proposition that the causal connection may relate only to the injuries.

34/ 35 N.Y.2d 444, 323 N.E.2d 164 (1974). For jurisdictions in accord with Spier, see n.35, infra.

35/ A line of cases in Illinois has expressed this distinction most succinctly: Mount v. McClellan, 91 Ill. App.2d 1, 234 N.E.2d 593 (1970); Heiser v. Chastain, 6 Ill. App.3d 552, 285 N.E.2d 601 (1972); Josel v. Rossi, 7 Ill. App.3d 1091, 288 N.E.2d 677 (1972); Yocco v. Barris, 16 Ill. App.3d 113, 305 N.E.2d 584 (1973); Atz v. Goss, 21 Ill. App.3d 878, 316 N.E.2d 29 (1974); Eichorn v. Olson, 32 Ill. App.3d 587, 335 N.E.2d 774 (1975); Dudanas v. Plate, 44 Ill. App.3d 901, 358 N.E.2d 1171 (1976). For other jurisdictions which have made this distinction, see Spier v. Barker, 35 N.Y.2d 444, 323 N.E.2d 164 (1974); Pritts v. Walter Lowery Trucking Co., 400 F. Supp. 867 (W.D. Pa. 1975);

Truman v. Vargas, 275 Cal. App.2d 976, 80 Cal. Rptr. 373 (1969); Wilson v. Volkswagen of America, 445 F. Supp. 1368 (D.Va. 1978); Benner v. Interstate Container Corp., 73 F.R.D. 502 (D.Pa. 1977).

36/ W. PROSSER § 64.

37/ Id. Prosser suggests that this distinction is not really workable, particularly in cases (such as the seat belt cases) where the plaintiff's conduct prior to his injury, although not contributing to causation of the accident, nevertheless does result in an aggravation of the ensuing damages. He suggests that probably the best view is that damages should be apportioned in such cases, but cases will be infrequent where the extent of aggravation can be accurately determined, and the courts may properly refuse to reduce damages on the basis of mere speculation. He suggests that the real difference between avoidable consequences and contributory negligence is that in the former the damages are capable of being apportioned while in the latter they are not.

38/ Spier v. Barker, 35 N.Y.2d 444, 323 N.E.2d 164 (1974); Dudanas v. Plate, 44 Ill. App.3d 901, 358 N.E.2d 1171 (1976); Eichorn v. Olson, 32 Ill. App.3d 587, 335 N.E.2d 774 (1975); Wilson v. Volkswagen of America, 445 F. Supp. 1368 (D. Va. 1978); Kassela v. Stovitsch, 373 N.E.2d 608 (1978); Heisen v. Chastain, 6 Ill. App.3d 552, 285 N.E.2d 601 (1972); Pritts v. Walter Lowery Trucking Co., 400 F. Supp. 867 (D.Pa. 1975); Langford v. Chrysler Motors, 513 F.2d 1121 (1975); Yocco v. Barris, 16 Ill. App.3d 113, 305 N.E.2d 584 (1973); Henderson v. United States 429 F.2d 588 (10th Cir. 1970); Uresky v. Fedora, 27 Conn. Supp. 498, 245 A.2d 393 (1968); Hernke v. Coronet Ins. Co., 72 Wis.2d 170, 240 N.W.2d 382 (1976); Glover v. Daniels, 310 F. Supp. 750 (D. Miss. 1970); Thomas v. Goodman, 372 A.2d 378 (1977); Benner v. Interstate Container Corp. 73 F.R.D. 502 (D. Pa. 1977); Latta v. Siefke, 401 N.Y.S.2d 937 (1978); Noth v. Scheurer, 385 F. Supp. 81 (E.D.N.Y. 1968); Remington v. Arndt, 28 Conn. Supp. 289, 259 A.2d 145 (Conn. Super. 1969); Hale v. Cravens, 129 Ill. App. 2d 466, 263 N.E.2d 593 (1970); Schomer v. Madigan, 255 N.E.2d 620 (Ill. App. 1970); Mount v. McClellan, 91 Ill. App.2d 1, 234 N.E.2d 329 (1968); Fontenot v. Fidelity and Cas. Co., 217 So.2d 702 (La. App. 1969); Sonnier v. Ramsey, 424 S.W.2d 684 (Tex. Civ. App. 1968); Tom Brown Drilling Co. v. Nieman, 418 S.W.2d 337 (Tex. Civ. App. 1967).

39/ 35 N.Y.2d 444, 323 N.E.2d 164, 169 (1974). Accord, Latta v. Siefke, 401 N.Y.S.2d 937 (1978).

40/ 35 N.Y.2d 444 at 452, 323 N.E.2d 164 at 169 (1974).

41/ 91 Ill. App.2d 1, 234 N.E.2d 229 (1968).

42/ See, in particular, Jossel v. Rossi, 7 Ill. App.3d 1091, 288 N.E.2d 677 (1972); Blitz v. Checker Taxi Co., 8 Ill. App.2d 361, 290 N.E.2d 291 (1972); Yacco v. Barris, 16 Ill. App.3d 113, 305 N.E.2d 684 (1973); Atz v. Goss, 21 Ill. App.3d 878, 316 N.E.2d 29 (1974).

43/ See, in particular, Yacco v. Barris, 16 Ill. App.3d 113, 305 N.E.2d 584 (1973); Jossel v. Rossi, 7 Ill. App.3d 1091, 288 N.E.2d 677 (1972).

44/ Va. Code Ann. § 46.1-309.1 (1974).

45/ Wilson v. Volkswagen of America, 445 F. Supp. 1368 (D. Va. 1978).

46/ See, in particular, Eichorn v. Olson, 32 Ill. App.3d 587, 335 N.E.2d 774 (1975); Dudanas v. Plate, 44 Ill. App.3d 901, 358 N.E.2d 1171; Kassela v. Stovitsch, 373 N.E.2d 608 (1978); Spier v. Barker, 35 N.Y.2d 444, 323 N.E.2d 164 (1974); Hale v. Cravens, 129 Ill. App.2d 466, 263 N.E.2d 593 (1970); Schomer v. Madigan, 225 N.E.2d 620 (Ill. App. 1970); Fontenot v. Fidelity and Cas. Co., 217 So.2d 702 (La. App. 1969); Tom Brown Drilling Co. v. Nieman, 418 S.W.2d 337 (Tex. Civ. App. 1967).

47/ 35 N.Y.2d 444, 450, 323 N.E.2d 164, 169 (1974).

48/ 129 Ill. App. 2d 466, 477, 263 N.E.2d 593, 598 (1970).

49/ See, in particular, Hale v. Cravens, 29 Ill. App.2d 466, 263 N.E.2d 593 (1970); Probus v. Brown, 33 Ill. App.3d 639, 338 N.E.2d 251 (1975).

50/ See, in particular, Schomer v. Madigan, 120 Ill. App.2d 107, 255 N.E.2d 620 (1970).

51/ See, in particular, Heiser v. Chastain, 6 Ill. App.3d 552, 285 N.E.2d 601 (1972); Kravenas v. Algonquin Township, 13 Ill. App.3d 1000, 301 N.E.2d 490 (1973).

52/ 32 Ill. App.3d 587, 335 N.E.2d 774 (1975).

53/ Id.

54/ 44 Ill. App.3d 901, 358 N.E.2d 1171 (1976).

55/ 358 N.E.2d 1171, 1178 (1976).

56/ See, in particular, Spier v. Barker, 35 N.Y.2d 444, 323 N.E.2d 164 (1974); Dudanas v. Plate, 44 Ill. App.3d 901, 358 N.E.2d 1171 (1976); Kassela v. Stovitsch, 373 N.E.2d 608 (1978); Truman v. Vargas, 80 Cal. Rptr. 373 (Cal. App. 1969); Schomer v. Madigan, 120 Ill. App.2d 107, 255 N.E.2d 620 (1970).

57/ Shomer v. Madigan, 120 Ill. App.2d 107, 255 N.E.2d 620 (1970).

58/ Spier v. Barker, 35 N.Y.2d 444, 323 N.E.2d 164 (1974).

59/ Rhinebarger v. Mummert, 362 N.E.2d 184 (1977).

60/ See, in particular, Pritts v. Walter Lowery Trucking Co., 400 F. Supp. 867 (D. Pa. 1975); Glover v. Daniels, 310 F. Supp. 750 (N.D. Miss. 1970); Noth v. Scheurer, 285 F. Supp. 81 (E.D.N.Y. 1968).

61/ See, in particular, Schomer v. Madigan, 120 Ill. App.2d 107, 255 N.E.2d 620 (1970); Fisher v. Moore, 183 Colo. 392, 517 P.2d 458 (1973); Polyard v. Terry, 372 A.2d 378 (1977); Thomas v. Goodman, 365 N.E.2d 1314 (1977).

62/ See, in particular, Lipscomb v. Diamiani, 266 A.2d 914 (1967); Barry v. Coca Cola Co., 99 N.J. Super. 270, 239 A.3d 273 (1967).

63/ Polyard v. Terry, 372 A.2d 378 (1977).

64/ Vizzini v. Ford Motor Co., 72 F.R.D. 132 (E.D. Pa. 1976).

65/ See, Pritts v. Walter Lowery Trucking Co., 400 F. Supp. 867 (D. Pa. 1975); Benner v. Interstate Container Corp., 73 F.R.D. 502 (D. Pa. 1977).

66/ See, in particular, Spier v. Barker 35 N.Y.2d 448, 323 N.E.2d 164 (1974); Dudanas v. Plate, 44 Ill. App. 901, 358 N.E.2d 1171 (1976); Pritts v. Walter Lowery Trucking Co., 400 F. Supp. 867 (D. Pa. 1975).

67/ Spier v. Barker, 35 N.Y.2d 446, 323 N.E.2d 164 (1974).

68/ C.R. HEFT and C.J. HEFT, COMPARATIVE NEGLIGENCE MANUAL, § 1.10 (1978) [hereinafter referred to as C.J. HEFT). As of 1977, the Federal Government and 33 states had adopted some form of comparative fault. See UNIFORM COMPARATIVE FAULT ACT, Prefactory Note, HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, 343 (1977). For the particular types of comparative negligence in each state, see C.J. HEFT.

69/ Id.

70/ See, for example, HENRY WOODS, COMPARATIVE FAULT: THE NEGLIGENCE CASE § 5.5 (1978).

71/ RESTATEMENT § 465, Comment C. See also, P. James, Connecticut's Comparative Negligence Statute, 6 CONN. L. REV. 201, 216; FLEMING, LAW OF TORTS 241-42 (3rd ed. 1965).

72/ See footnote 68, supra.

73/ UNIFORM COMPARATIVE FAULT ACT, HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS, 345-53 (1977).

74/ Id., at § 1(a).

75/ Id., at § 1(b).

76/ Id., at § 1, Comments.

77/ Id., at § 1, Comments.

78/ Ark. Stat. Ann. § 27-1763 (Supp. 1977).

79/ Me. Rev. Stat. tit. 14, § 156 (Supp. 1979).

80/ N.Y. Civ. Prac. Law § 1411 (1976).

81/ R.I. Gen. Laws § 9-20-4 (Supp. 1978).

82/ Harlan v. Curbo, 466 S.W.2d 459 (Ark. 1971).

83/ See, e.g., Wittenbach v. Ryan, 63 Cal. App.3d 712, 134 Cal. Rptr. 47 (Ct. App. 1976). California adopted comparative negligence by judicial decision. The court in Wittenbach, referring to the decision which adopted comparative negligence, noted that it:

> [A]bolished the doctrine of contributory negligence only as to its result. It did not abolish the term "contributory negligence," nor did it abolish the concept of contributory negligence, meaning negligence on the part of the plaintiff contributing causally to plaintiff's injury.

63 Cal. App.3d at 718, 134 Cal. Rptr. at 50.

84/ Conn. Gen. Stat. Ann. § 52-572h(a) (Supp. 1979).

85/ Melesko v. Riley, 32 Conn. Supp. 89, 339 A.2d 479 (Super. Ct. 1975).

86/ Id.

87/ Peterson v. Klos, 426 F.2d 199 (5th Cir. 1977).

88/ Howard v. Bachman, 524 S.W.2d 414 (Tex. Ct. App. 1975).

89/ Id. The statute is quoted in the case at 524 S.W.2d 416.

90/ Id.

91/ Wis. Stat. § 895.045 is like the Connecticut and Texas statutes in that all three specify that "contributory negligence" shall not bar recovery, but damages must be diminished in proportion to the amount of negligence attributable to the person recovering.

92/ Bentzler v. Braun, 34 Wis.2d 362, 142 N.W.2d 626 (1967). It should be observed, however, that the injured plaintiff in this case was a guest passenger in an automobile being driven by one of the defendants. The court's conclusions about the causation issue are based on cases which deal with the duty of a guest to exercise ordinary care for his own safety. See the court's analysis at 194 N.W.2d 640. Thus, the conclusions in this case relating to the seat belt defense could be limited to guest passengers only.

93/ Amend v. Bell, 570 P.2d 138 (Wash. 1977).

94/ Quinius v. Estrada, 448 S.W.2d 552 (Tex. Civ. App. 1969).

95/ See, for example, the following two accident reports by the National Transportation Safety Board: Highway Accident Report,

Schoolbus/Automobile Collision and Fire Near Reston, Virginia, February 29, 1972, Report Number NTSB-HAR-72-2 (April 12, 1972) (unbelted school bus driver was ejected from seat in collision resulting in a second collision that injured occupants of bus) and Highway Accident Report, Multiple-Vehicle Collision and Fires, U.S. 101 North of Ventura, California, August 18, 1971, Report Number NTSB-HAR-72-4 (July 6, 1972) (unbelted truck driver was ejected by an explosion following a collision possibly resulting in further collisions and injuries to other persons).

96/ Greenman v. Yuba Products, Inc., 59 Cal.2d 57, 377 P.2d 897 (1963). The RESTATEMENT defines the doctrine of strict liability for a defective product as follows:

> (1) One who sells any product in a defective condition unreasonably dangerous to the user or consumer or to his property is subject to liability for physical harm thereby caused to the ultimate user or consumer, or to his property, if
>
> (a) the seller is engaged in the business of selling such a product, and
>
> (b) it is expected to and does reach the user or consumer without substantial change in the condition in which it is sold.
>
> (2) The rule stated in Subsection (a) applies although
>
> (a) the seller has exercised all possible care in the preparation and sale of his product, and,
>
> (b) the user or consumer has not bought the product from or entered into any contractual relation with the seller.

RESTATEMENT § 402A.

97/ Horn v. General Motors Corp., 17 Cal.3d 359, 551 P.2d 398 (Cal. App. 1973).

98/ Id., citing Price v. Shell Oil Co., 2 Cal.3d 245, 466 P.2d 722 (1970); Cronin v. J.B.E. Olson Corp., 8 Cal.3d 121, 501 P.2d 1153 (1972).

99/ Cronin v. J.B.E. Olson Corp., 8 Cal.3d 121, 501 P.2d 1153 (1972).

100/ Id.

101/ Horn v. General Motors Corp., 17 Cal.3d 359, 551 P.2d 398 (Cal. App. 1973).

102/ Id., citing Luque v. McClean, 8 Cal.3d 136, 501 P.2d 1163 (1972).

103/ Id.

104/ See, generally, Annot: Products Liability: Contributory Negligence or Assumption of Risk as Defense under Doctrine of Strict Liability in Tort, 46 A.L.R.3d 240 (1972).

105/ Cronin v. J.B.E. Olson Corp., 8 Cal.3d 121, 501 P.2d 1153 (1972); Johnson v. Standard Brands Paint Co., 274 Cal. App.2d 331, 79 Cal. Rptr. 194 (1969).

106/ Id.

107/ 17 Cal.3d 359, 551 P.2d 398 (Cal. App. 1973).

108/ Id. at 403.

109/ Id. at 404.

110/ Id.

111/ Fields v. Volkswagen, 555 P.2d 48 (Okla. 1976); Langford v. Chrysler Motors Corp., 373 F. Supp. 1251 (D.C.N.Y. 1974), aff'd., 513 F.2d 1121 (2d Cir. 1974); Wilson v. Volkswagen of America, 445 F. Supp. 1368 (1978, D.C. Va.).

112/ Langford v. Chrysler Motors Corp., 373 F. Supp. 1251 (1974 D.C. N.Y.), aff'd., 513 F.2d 1121 (2d Cir. 1974); Wilson v. Volkswagon of America, 445 F. Supp. 1368 (D. Va. 1978).

113/ Larsen v. General Motors, 391 F.2d 495 (8th Cir. 1968).

114/ See, Kircher, Safety Belt Defense, Current Status, 16 For the Defense 45 (April 1965); Edward P. Good, Motor Vehicle Manufacturers Association of the United States, Inc., "Legal Considerations in Seat Belt Use," presented at the Aug. 4, 1976 annual Institute on Motor Vehicle and Traffic Law, Boulder, Colo.

115/ RESTATEMENT § 283; W. PROSSER, § 32.

116/ RESTATEMENT §§ 285 (a) and 286; W. PROSSER, § 35.

117/ The Code was amended in 1979 to include the following requirements:

§ 12-412.1 -- Driver must use lap belt

(a) Every driver shall wear a properly adjusted and fastened lap belt.

(b) Subsection (a) shall not apply to:

(1) A driver in a seating position that is not equipped with a lap belt;

(2) A driver frequently stopping and leaving the vehicle or delivering property from the vehicle so long as the speed of the vehicle between stops does not exceed 15 miles per hour.

(3) A driver possessing a written indication from a physician that he is unable for medical or physical reasons to wear a lap belt; or

(4) A driver possessing a certificate or license endorsement issued by the department, or a similar agency in another state or country, indicating he is unable for medical, physical or other valid reasons to wear a lap belt.

§ 12-412.2 -- Driver must use shoulder belt

(a) Every driver shall wear a properly adjusted and fastened shoulder belt.

(b) Subsection (a) shall not apply:

(1) To a driver in a seating position that is not equipped with a lap belt or a usable lap belt;

(2) To a driver in a seating position that is not equipped with a shoulder belt or with a usable shoulder belt;

(3) To a driver frequently stopping and leaving the vehicle or delivering property from the vehicle so long as the speed of the vehicle between stops does not exceed 15 miles per hour;

(4) To a driver possessing a written indication from a physician that he is unable for medical or physical reasons to wear a lap belt or a shoulder belt;

(5) To a driver possessing a certificate or license endorsement issued by the department, or a similar agency in another state or country, indicating he is unable for medical, physical or other valid reasons to wear a lap belt or a shoulder belt; or

(6) When use of the shoulder belt would interfere with operation of the vehicle.

§ 12-412.3 -- Passengers must use lap and shoulder belts

Every passenger other than the driver shall wear a properly adjusted and fastened lap belt, or a properly adjusted and fastened lap belt and shoulder belt if his seating position is so equipped, unless such use is not possible, safe or reasonable or unless such passenger belongs to a class of persons exempted for medical, physical or occupational reasons under rules adopted by the department.

§ 12-412.4 -- Effect of nonuse in civil litigation

Failure to use any belt in violation of this Act shall not diminish recovery for damages arising out of the ownership, maintenance or use of a motor vehicle.

UVC §§ 12-412.1 - 12-412.4 (Supp. 1979).

118/ See UVC § 12-412.4 (Supp. 1979), quoted in footnote 117, supra.

119/ Cal. Veh. Code § 27304 (Supp. 1979).

120/ Mass. Ann. Laws ch. 90, § 7B (Supp. 1977); N.Y. Veh. & Traf. Law § 383(4-a) (1970).

121/ R.I. Gen. Laws Ann. § 31-23-41 (1968).

122/ Tenn. Code Ann. § 59-930(b) (Supp. 1979) provides as follows:

(b) Effective January 1, 1978, every parent or legal guardian of a child under the age of four (4) years residing in this state shall be responsible, when transporting his child in a motor vehicle owned by that parent or guardian operated on the roadways, streets or highways of this state, for providing for the protection of his child and properly using a child passenger restraint system meeting federal motor vehicle safety standards, or assuring that such child is held in the arms of an older person riding as a passenger in the motor vehicle. Provided that the term "motor vehicle" as used in this paragraph shall not apply to trucks having a tonnage rating of one (1) ton or more. Provided that in no event shall failure to wear a child passenger restraint system be considered as contributory negligence, nor shall such failure to wear said child passenger restraint system be admissible as evidence in the trial of any civil action.

123/ Id., last sentence.

124/ Iowa Code Ann. § 321.445 (Supp. 1979).

125/ Me. Rev. Stat. tit. 29, § 1368-A (1978).

126/ Minn. Stat. Ann. § 169.685(4) (Supp. 1980).

127/ Tenn. Code Ann. § 59-930(a) (Supp. 1979).

128/ Va. Code Ann. § 46.1-309.1(b) (1974).

129/ Wilson v. Volkswagen of America, 445 F. Supp. 1368 (D. Va. 1978).

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STATE PARTICIPATION IN DEFECT RECALL CAMPAIGNS

The Commentary series covers, on a selective basis, the development and status of state motor vehicle and traffic laws, particularly as they relate to provisions in the Uniform Vehicle Code.

TD 8.5/2:

STATE PARTICIPATION IN DEFECT RECALL CAMPAIGNS

by

Stuart A. Liner

National Committee on Uniform Traffic Laws and Ordinances

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TABLE OF CONTENTS

INTRODUCTION. 1

REGISTRATION. 1
Periods Of Registration. 2
Loss Of Registration 3
Authority To Deny Registration 3
Authority To Suspend, Revoke Or Cancel Registration. . . . 4

INSPECTION. 5
General. 5
Periodic Motor Vehicle Inspection Programs 6
Frequency Of Inspections. 7
Legislative Enumeration Of Equipment To Be Inspected 7
Non-Periodic Motor Vehicle Inspections 9
Inspections Upon Reasonable Cause. 9
Authority For Local Inspection Programs. 10
Withdrawing Registration Upon Failure To Pass Inspection 11
Uniform Vehicle Code. 11
States With Periodic Inspection Programs. 11
Withdrawing Registration After Random Inspection. . .12

USING UNSAFE VEHICLES IS UNLAWFUL 13
Uniform Vehicle Code 13
State Laws 13

STATE INVOLVEMENT IN DEFECT RECALL CAMPAIGNS. 14
Rules And Regulations. 14
Dissemination Of Information 16
Suspension Of Dealer Licenses. 16
Authority To Enter Contracts 17
Liability Of State For Breach Of Contract. 19

CONCLUSION AND OBSERVATIONS 21

FOOTNOTES 22

INTRODUCTION

After a motor vehicle has been manufactured, a defect affecting safety may be discovered. The owner of any vehicle with the defect is notified by the manufacturer and is requested to return the vehicle to a dealer for correction of the defect. Many owners do not return their vehicles and the defects remain.

If the defect causes a crash or increases the severity of injury, the failure to have the defect corrected would be very serious. In view of the fact that most vehicles involved in defect recall notices have not been repaired because of inaction of the owners, there does appear to be a significant problem.

How could the states encourage owners of these motor vehicles to have them repaired? Are there current state laws that would require an owner of a registered motor vehicle subject to a defect recall notice to have the vehicle repaired?

This Commentary will review state laws that might authorize requiring owners to comply with a defect recall notice. It will cover Uniform Vehicle Code provisions providing for withdrawal of registration if a vehicle is found unsafe to be moved or operated upon the highways as well as provisions making it unlawful to operate an unsafe vehicle. This Commentary will also examine state authority to participate in defect recall campaigns, to enter into agreements pertaining to defect recall campaigns, to disseminate information to the public on defect recall campaigns, and state liability, if any, for breach of contract.

REGISTRATION

One of the difficulties with the current federal program of recalling motor vehicles possessing specified defects is the failure to achieve compliance by the vehicle owners. This is due primarily to the voluntary nature of the program with no apparent basis upon which to impose any sanctions on the owner for his failure to comply.

In an effort to stimulate compliance by owners of vehicles containing defects subject to recall, attention is being focused on the role of the states. Within the parameter of this role, attention is directed to those areas of statutory authority that would permit a state to mandate (or at the least, provide the state with the requisite discretionary authority to require) compliance by the owner in a defect recall campaign.

One way this could possibly be accomplished is the threat of loss of registration. The Uniform Vehicle Code (UVC) provides in § 3-704(2), general authority for a state to withdraw registration ". . . (2) When the department determines that a registered vehicle is mechanically unfit or unsafe to be operated or moved upon the highways."

The UVC provides for additional authority to withdraw vehicular registration in the areas of inspection and equipment violations. The Commentary will review state laws on registration with particular emphasis on the loss of registration for an unfit or unsafe vehicle.

Before this analysis is undertaken, the Commentary will briefly examine state laws on the periods of registration and the manner in which states have established the registration periods for renewal. These laws will be compared with § 3-412, the applicable UVC provision.

Periods Of Registration

Fifty jurisdictions, including the District of Columbia, and the UVC have annual registration periods with one state -- Oregon -- maintaining a two-year registration period. Payment of the registration fee must occur prior to the beginning of the period. UVC § 3-412 would allow the department of motor vehicles to designate the month for the expiration of the registration period, which would occur on the last day of that month.

From UVC § 3-412 can be inferred authority for a department to establish a staggered registration system under which registration renewals would be staggered throughout the calendar year. Twenty-seven states have adopted specific legislation for the staggering of registration periods. The 27 states are:

Alaska	Kansas	Nevada	Pennsylvania
Arizona	Kentucky	New Hampshire	Texas
Arkansas	Maine	New Jersey	Virginia
Connecticut	Michigan	New Mexico	Washington
Delaware	Minnesota	Ohio	West Virginia
Illinois	Missouri	Oklahoma	Wisconsin
Indiana	Nebraska	Oregon	

The 24 jurisdictions that do not have a staggered registration program are:

Alabama	Iowa	New York	Tennessee
California	Louisiana	North Carolina	Utah
Colorado	Maryland	North Dakota	Vermont
Florida	Massachusetts	Rhode Island	Wyoming
Georgia	Mississippi	South Carolina	District of
Hawaii	Montana	South Dakota	Columbia
Idaho			

Loss Of Registration

For a defect recall campaign to be implemented at the state level, a state should have statutory authority to exert pressure on owners to comply with defect recall notices. One basis of authority could be the threatened loss of registration for noncompliance. The Uniform Vehicle Code provides for suspension or revocation of registration in §§ 3-406 and 3-704 whenever a vehicle is determined to be mechanically unsafe or unfit to be operated or moved upon the highways. Loss of registration could also occur through rejection of an application for registration as well as failing to meet a state's safety inspection requirements or required equipment provisions. This Commentary will examine the comparable state provisions relating to loss of registration involving an unqualified vehicle.

The question that must be addressed initially is whether a vehicle subject to a defect recall notice is a "mechanically unfit or unsafe vehicle to be operated or moved upon the highways." Research of judicial decisions at the state level has not revealed any interpretation of the quoted phrase. There are, therefore, no judicial guidelines or standards established upon which to determine what is meant by an unsafe or unfit vehicle. It is suggested that the rationale for the issuance of a defect recall notice should be utilized as the basis for stating that a vehicle subject to the notice is an unfit or unsafe vehicle if not corrected within a specified period of time. The registration of that vehicle could then be suspended or revoked.

Authority To Deny Registration

Applications for registration of vehicles subject to a defect recall notice could be denied on the basis of being an unfit or unsafe vehicle.

UVC § 3-406(2) provides for mandatory refusal of registration or transfer of registration if a ". . . vehicle is mechanically unfit or unsafe to be operated or moved upon the highways . . . ."

Ten jurisdictions have laws that are substantially similar to UVC § 3-406(2). The ten jurisdictions are:

Delaware	North Dakota	Utah
Iowa[1/]	Rhode Island	West Virginia
Maryland	South Carolina	District of Columbia
North Carolina		

Five states provide the department of motor vehicles with discretionary authority for refusing to register vehicles that are mechanically unfit or unsafe. The five states are:

California	New Mexico	Texas
Connecticut		Virginia

The remaining 36 states do not have laws providing for refusing registrations or transfer of registrations if a vehicle is mechanically unfit or unsafe.

Authority To Suspend, Revoke Or Cancel Registration

Authority to withdraw registration may be utilized by a state in a similar fashion to its refusal to register; namely, if a vehicle is determined to be an unsafe or unfit vehicle. As in § 3-406(2), the Uniform Vehicle Code grants the department in § 3-704(2) the authority to suspend or revoke the registration of a vehicle that it determines to be "mechanically unfit or unsafe to be operated or moved upon the highways." Note that the language of the two UVC provisions are almost identical.

Seven states have laws that duplicate UVC § 3-704(2):

Arkansas	Iowa	Utah
California	New Mexico	West Virginia
	Rhode Island	

Seven more states have laws that are in substantial agreement with UVC § 3-704(2) in providing discretionary authority to suspend, revoke or cancel registration:

Alaska	Massachusetts[2/]	Texas
Maryland	Pennsylvania	Vermont
	South Carolina	

One state -- Connecticut -- provides its commissioner of motor vehicles with broad discretionary authority to suspend registration for any cause that he deems necessary.

Thirty-six states do not have laws which would authorize suspending registration if a vehicle is unfit or unsafe to be driven or moved upon the highways.

INSPECTION

General

Enforcement of defect recall notices may also be accomplished through motor vehicle inspection programs, particularly in the jurisdictions that authorize suspension of registration of a vehicle that does not pass inspection. Utilization of this administrative procedure as an instrument to effect compliance of vehicles to a state's inspection and equipment requirements will be analyzed following a brief discussion of the types of motor vehicle inspection programs that are currently in existence.

Motor vehicle inspection programs can be separated into two categories; namely, periodic and non-periodic. The non-periodic inspection programs would encompass on-the-spot or random inspections as well as allowing inspection of a vehicle by a police officer if he has probable or reasonable cause to do so. Periodic motor vehicle inspection programs, on the other hand, are state or local inspection programs that require an inspection of a vehicle once or twice a year or prior to renewal of registration.

There are 49 jurisdictions that authorize one or more motor vehicle inspection programs. These jurisdictions are:

Alabama	Indiana	Nebraska	Rhode Island
Alaska	Iowa	Nevada	South Carolina
Arizona	Kansas	New Hampshire	South Dakota
Arkansas	Kentucky	New Jersey	Tennessee
California	Louisiana	New Mexico	Texas
Colorado	Maine	New York	Utah
Connecticut	Maryland	North Carolina	Vermont
Delaware	Massachusetts	North Dakota	Virginia
Florida	Michigan	Ohio	Washington
Georgia	Minnesota	Oklahoma	West Virginia
Hawaii	Mississippi	Oregon	District of
Idaho	Missouri	Pennsylvania	Columbia
Illinois	Montana		

Two states -- Wisconsin and Wyoming -- have no laws pertaining to the inspection of motor vehicles.

Periodic Motor Vehicle Inspection Programs

Periodic motor vehicle inspection programs could be an effective means to correct defects cited in defect recall notices. Whether the equipment that is normally checked at a regular inspection includes equipment subject to a defect recall notice is dependent upon the statutory authority authorizing the inspections. States maintaining a periodic motor vehicle inspection program either provide for the items of equipment to be inspected by statute or regulation.

UVC § 13-104(a) provides that the items of equipment to be inspected should be designated by the commissioner of motor vehicles.[3] This approach would allow departments of motor vehicles to include equipment thought to be defective. In contrast, several states enumerate the items of equipment to be inspected. In these states, the laws would have to be amended to include any defective equipment unless that equipment happened to be already included in the law.

There are 28 jurisdictions that have authorized periodic motor vehicle inspection programs. The 28 jurisdictions are:

Arkansas	Louisiana	New Jersey	Texas
Colorado	Maine	New York	Utah
Delaware	Massachusetts	North Carolina	Vermont
Florida	Mississippi	Oklahoma	Virginia
Georgia	Missouri	Pennsylvania	Washington[4]
Hawaii	Nebraska	Rhode Island	West Virginia
Indiana	New Hampshire	South Carolina	District of Columbia

There are 23 states that do not have periodic motor vehicle inspection programs, that is, programs requiring a vehicle to be inspected after the passage of a designated period of time. The states are:

Alaska[5/]	Illinois	Minnesota	Oregon
Alabama	Iowa	Montana	South Dakota
Arizona	Kansas	Nevada	Tennessee
California	Kentucky	New Mexico	Wisconsin
Connecticut	Maryland	North Dakota	Wyoming
Idaho	Michigan	Ohio	

Frequency Of Inspections

Twenty jurisdictions maintain an annual inspection program and six states require inspections at six-month intervals. Two states -- New Jersey and Washington -- have authorized the frequency of inspections to be set by regulations.

The jurisdictions with annual inspections are:

Arkansas	Indiana	New York	Texas
Colorado	Louisiana	North Carolina	Utah
Delaware	Mississippi	Oklahoma	West Virginia
Florida	Missouri	Rhode Island	District of Columbia
Georgia	Nebraska	South Carolina	
Hawaii			

The six states with semi-annual inspections are:

Maine	New Hampshire	Vermont
Massachusetts	Pennsylvania	Virginia

Legislative Enumeration Of Equipment To Be Inspected

Eight states enumerate the items of equipment to be inspected in their statutes:

Arkansas	Georgia	Maine	North Carolina
Florida	Indiana	Massachusetts	Texas

The items of equipment inspected under these laws are:

Arkansas -- Brakes, lights, turning signal, steering, sound devices, glass, mirrors, exhaust system, windshield, wipers and tires.

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Florida -- Brakes, lights, horn, steering mechanism, windshield, wipers, directional signals, tires, and exhaust system.

Georgia -- Brakes, lights, turn signals, reflectors, windshield wipers, rear view mirror, windshield and windows, horn, tires, seat belts, steering and wheel alignment.

Indiana -- Steering mechanism, brakes, tires, lighting equipment, horns and signal devices, mirrors, windshield wipers, exhaust system, safety glass, front and rear suspension, bumpers, air pollution control devices, positive crankcase ventilation (PCV) and exhaust emission control system.

Maine -- Brakes, lights, steering, sound devices, glass, mirrors, exhaust system, windshield wipers, seat belts, tires, body components and reflectors.

Massachusetts -- Brakes, lights, steering, sound devices, mirrors, exhaust system, windshield wipers, and tires.

North Carolina -- Brakes, lights, steering, sound devices, mirrors, exhaust system, windshield wipers and tires.

Texas -- Brakes, steering, sound devices, mirrors, exhaust system, windshield wipers, seat belts, and tires.

The list of specific items of equipment to be inspected obviously precludes other items from being inspected. Thus, utilization of periodic motor vehicle inspection programs for defect recall notices would be limited to the items of equipment that have been statutorily specified in these states.

Seven states list specific items of equipment for inspection; however, authority to include additional items by the promulgation of regulations is also provided. The seven states are:

Colorado	Missouri	Rhode Island
Mississippi	Nebraska	South Carolina
	New York	

The statutory authority to include additional items of equipment to be inspected by regulation permits the utilization of this process to cover items of equipment subject to defect recall notices that are not part of the statutory list.

The 13 remaining jurisdictions that maintain periodic motor vehicle inspection programs are similar to UVC § 13-104(a) because they delegate authority to the appropriate administrative agency or official to designate, by regulation, the items of equipment to be inspected. The 13 jurisdictions are:

Delaware	New Hampshire	Utah	Washington
Hawaii	New Jersey	Vermont	West Virginia
Louisiana	Oklahoma	Virginia	District of Columbia
	Pennsylvania		

Non-Periodic Motor Vehicle Inspections

Laws have been enacted in 40 jurisdictions permitting inspections on a random basis or at the option of a police officer or department official having reasonable cause to believe a vehicle is not properly equipped as required by law:

Alaska	Indiana	Missouri	Pennsylvania
Arizona	Iowa	Montana	Rhode Island
Arkansas	Kansas	Nevada	South Carolina
California	Kentucky	New Mexico	South Dakota
Colorado	Louisiana	New York	Tennessee
Connecticut	Maine	North Carolina	Utah
Delaware	Maryland	North Dakota	Washington
Florida	Michigan	Ohio	West Virginia
Georgia	Minnesota	Oklahoma	District of Columbia
Hawaii	Mississippi	Oregon	
Idaho			

There are 11 states that do not have laws authorizing non-periodic motor vehicle inspections. The 11 states are:

Alabama	New Hampshire	Vermont
Illinois	New Jersey	Virginia
Massachusetts	Texas	Wisconsin
Nebraska		Wyoming

Inspections Upon Reasonable Cause

Thirty-six jurisdictions have laws comparable to UVC § 13-102(a) permitting an inspection if there is reasonable cause to believe that the vehicle is unsafe or not equipped as required by law. The 36 jurisdictions are:

Alaska	Idaho	Montana	Rhode Island
Arizona	Indiana	Nevada	South Carolina
Arkansas	Iowa	New Mexico	South Dakota
California	Kansas	New York	Tennessee
Colorado	Kentucky	North Carolina	Utah
Connecticut	Louisiana	Ohio	Washington
Delaware	Maine	Oklahoma	West Virginia
Florida	Michigan	Oregon	District of
Georgia	Mississippi	Pennsylvania	Columbia
Hawaii			

The authority to inspect vehicles has been delegated to police officers or designated departmental officials except in eight states -- Colorado, Hawaii, Indiana, Kansas, Michigan, Missouri, Ohio and Tennessee -- where only police officials have been given this responsibility.

Eight states permit random on-the-spot inspections by police officers or authorized departmental officials. These stops are sometimes designated as roadside inspections. The eight states are:

Alaska	Iowa	Michigan	North Dakota
California	Kansas	Minnesota	Oregon

Discretionary authority to establish and maintain inspection stations for the examination of equipment exists in three states -- Connecticut, Nevada and Tennessee. In Nevada, the inspections are restricted to vehicles about to be registered, while in Tennessee, the inspections are limited to examinations of the lighting equipment and brakes.

Maryland requires inspection before any sale of a used vehicle in the state, and before issuing title or registration for any used vehicle brought into the state. Delaware and Oregon may waive inspection of new vehicles prior to registration; however, the waiver does not apply to out-of-state vehicles. Iowa, Kansas and Utah provide for the inspection of out-of-state vehicles and vehicles that have been sold prior to registration. Missouri requires inspections prior to renewals of registration and after a vehicle has been transferred to a new owner.

Authority For Local Inspection Programs

Eleven states have authorized local authorities within their jurisdictions to establish motor vehicle inspection programs. The 11 states are:

Alabama	Louisiana	New York
Florida	Michigan	Ohio
Illinois	Minnesota	Tennessee
Iowa		Washington

Withdrawing Registration Upon Failure Of Vehicle To Pass Inspection

Uniform Vehicle Code

Uniform Vehicle Code § 13-104(e) relating to the inspection of registered vehicles authorizes suspending or revoking registrations in three situations:

1. When the commissioner determines that the vehicle is mechanically unfit or unsafe to be operated or moved on the highway.

2. When after notice of the deficiency has been given the vehicle still is not equipped as required by the Code.

3. When a required certificate of inspection has not been obtained.[6]

States With Periodic Inspection Programs

Of the jurisdictions that maintain a periodic motor vehicle inspection program, 13 jurisdictions are comparable to UVC § 13-104(e) in providing for discretionary authority to suspend or revoke registration of a vehicle that fails to obtain an inspection certificate. The 13 jurisdictions are:

Colorado	Massachusetts	Rhode Island	Washington
Indiana	New Jersey	Utah	West Virginia
Georgia	Oklahoma	Vermont	District of Columbia
Louisiana			

Seven states are also comparable to UVC § 13-104(e) except that the administrative action for withdrawing registration is mandatory. The seven states are:

Arkansas	Mississippi	New York
Delaware	Missouri	South Carolina
	New Hampshire	

Five states do not provide for the loss of registration of a vehicle that fails to pass an inspection. However, no vehicle will

be permitted to be operated until the mechanical problems have been corrected and a certificate of inspection issued. The five states are

Florida	Nebraska	Pennsylvania
Maine		Texas

In Virginia, the owner of a vehicle that fails to pass inspection will be charged with a traffic infraction and possibly fined up to $100.

Two states -- Hawaii and North Carolina -- have not enacted any statutory provisions that would assess a penalty whenever a vehicle failed to pass inspection.

Withdrawing Registration After Random Inspection

Of the 40 states that authorize inspections based upon reasonable cause or random inspections by police officers and department officials, six states provide for the suspension of registration if a vehicle fails to pass inspection. In four of the states -- Connecticut, Hawaii, North Dakota and Rhode Island -- the administrative action is mandatory while two states -- Georgia and Maryland -- provide discretionary authority to suspend.

Twenty-seven jurisdictions do not provide for the suspension of registration. However, an owner of a vehicle that does not pass inspection and is cited in a notice by a police officer or department official, is not permitted to operate the vehicle until the defects have been corrected. Any operation of the vehicle will be construed as an unlawful act on the part of the owner or operator of the vehicle. Normally, each jurisdiction designates a certain number of days to allow correction of the defects cited in the notice. The 27 jurisdictions are:

Alaska	Idaho	Mississippi	Oregon
Arizona	Indiana	Missouri	Pennsylvania
Arkansas	Iowa	Montana	South Carolina
California	Kansas	Nevada	Utah
Colorado	Kentucky	New Mexico	West Virginia
Delaware	Louisiana	Ohio	District of
Florida	Maine	Oklahoma	Columbia

Owners of vehicles in Michigan, South Dakota and Tennessee are subject to arrest and are given an order to repair by police

officers if the defects cited in the initial inspection notice are not corrected within a specified number of days. Owners of vehicles in Alaska and Washington face the possible impoundment of their vehicles until the specified repairs are made.

There is no statutory provision in Minnesota, New York and North Carolina penalizing owners for failing to correct the defects set forth in the inspection notice following a random inspection check by a police officer.

USING UNSAFE VEHICLES IS UNLAWFUL

Uniform Vehicle Code

The Uniform Vehicle Code provides that it is a misdemeanor to use any vehicle "which is in such unsafe condition as to endanger any person." The wording of UVC § 12-101(a) (Supp. III 1979) would include both the driver of any unsafe vehicle and any owner who knowingly permits the vehicle to be driven or moved on any highway.[7] This section of the UVC appears in a chapter entitled "Equipment of Vehicles." Another section in a chapter entitled "Inspection of Vehicles" prohibits driving any vehicle that is in unsafe mechanical condition. UVC § 13-101 (1968).[8]

State Laws

There are 31 jurisdictions that have laws similar to UVC § 12-101(a) that prohibit use of any vehicle which is in such unsafe condition as to endanger any person. The 31 jurisdictions are:

California	Iowa	New Jersey	Texas
Colorado	Kansas	New Mexico	Utah
Delaware	Louisiana	North Dakota	Vermont
Florida	Maryland	Ohio	Washington
Georgia	Michigan	Oklahoma	West Virginia
Idaho	Minnesota	Oregon	Wyoming
Illinois	Mississippi	Rhode Island	District of Columbia
Indiana	Montana	South Carolina	

Twenty states do not have provisions comparable to UVC § 12-101(a). The 20 are:

Alabama	Hawaii	Nebraska	Pennsylvania
Alaska	Kentucky	Nevada	South Dakota
Arkansas	Maine	New Hampshire	Tennessee
Arizona	Massachusetts	New York	Virginia
Connecticut	Missouri	North Carolina	Wisconsin

Similarly, there are 26 jurisdictions with laws comparable to UVC § 13-101 and 25 states that do not. The 26 jurisdictions with provisions comparable to UVC § 13-101 are:

Alabama	Hawaii	Montana	South Dakota
Alaska	Idaho	New Mexico	Texas
Arizona	Indiana	Nevada	Utah
Arkansas	Kentucky	North Dakota	West Virginia
Delaware	Louisiana	Oklahoma	Wyoming
Florida	Mississippi	Rhode Island	District of
Georgia		South Carolina	Columbia

The 25 states that do not have provisions comparable to UVC § 13-101 are:

California	Maryland	New Hampshire	Pennsylvania
Colorado	Massachusetts	New Jersey	Tennessee
Connecticut	Michigan	New York	Vermont
Illinois	Minnesota	North Carolina	Virginia
Iowa	Missouri	Ohio	Washington
Kansas	Nebraska	Oregon	Wisconsin
Maine			

STATE INVOLVEMENT IN DEFECT RECALL CAMPAIGNS

This portion of the Commentary will explore several legal issues relating to a state becoming involved in a defect recall campaign, such as

1. Does a state have authority to participate in a defect recall campaign?

2. Could a state enter a contract providing for the state to notify owners to have their vehicles repaired?

Rules And Regulations

Before a state utilizes existing statutory powers to withdraw registration, consideration should be given to whether a state has any authority to involve itself in a defect recall

campaign. While there is no specific statutory authority relating to defect recalls, general language exists in several states that could be interpreted to permit state involvement with defect recall campaigns.

One basis upon which state involvement could be authorized is through the issuance and enforcement of rules and regulations. Administrators of motor vehicle departments are provided with the authority to adopt and enforce rules and regulations that are necessary to carry out the provisions of the motor vehicle laws. Thus, for example, regulations could be issued requiring the owners of motor vehicles to submit their vehicles for inspection as part of a defect recall campaign. Failure to do so could result in a loss of registration. Also, by regulation, a motor vehicle could be considered "mechanically unfit or unsafe to be operated or moved upon the highways" if a safety related defect has not been corrected. Failure to comply with a defect recall notice could result in the withdrawal of registration.

Thirty-eight jurisdictions provide statutory authority for the issuance and enforcement of rules and regulations by the motor vehicle departments. The 38 jurisdictions are:

Alabama	Illinois	New Jersey	South Dakota
Alaska	Indiana	New Mexico	Texas
Arizona	Iowa	New York	Utah
Arkansas	Louisiana	North Carolina	Vermont
California	Maine	North Dakota	Washington
Colorado	Maryland	Oklahoma	West Virginia
Delaware	Michigan	Oregon	Wyoming
Florida	Minnesota	Pennsylvania	District of Columbia
Georgia	Nebraska	Rhode Island	
Idaho	Nevada	South Carolina	

There are 13 states that do not provide statutory authority in their vehicle codes for motor vehicle departments to issue and enforce regulations. The 13 states are:

Connecticut	Massachusetts	Montana	Tennessee
Hawaii	Mississippi	New Hampshire	Virginia
Kansas	Missouri	Ohio	Wisconsin
Kentucky			

Twenty-nine jurisdictions provide for regulations to be issued and enforced by motor vehicle departments to supplement the laws on inspections. The 29 jurisdictions are:

Alaska	Louisiana	Nebraska	South Carolina
Arkansas	Maine	New Jersey	Texas
California	Maryland	New York	Utah
Colorado	Massachusetts	North Carolina	Virginia
Florida	Minnesota	Ohio	Washington
Hawaii	Mississippi	Oklahoma	West Virginia
Indiana	Missouri	Rhode Island	District of Columbia
Kentucky			

Dissemination Of Information

One function of state government is to inform people about new laws, regulations, or changes in state policy or programs. An essential element of a defect recall campaign is the necessity of owners, whose vehicles are subject to a defect recall notice, to receive information on the importance of complying with the notice. Documents on new state laws and regulations involving defect recall campaigns and the possibility of loss of registrations for noncompliance should be distributed to the public.

There are no state laws specifically authorizing the dissemination of information relative to defect recall notices. However, there are 11 states that provide for the dissemination of pamphlets covering subjects such as rules and new regulations, traffic laws governing the operation of motor vehicles, licensing of operators, accident reporting, dealer licensing, and other relevant department activity. The 11 states are:

Alaska	Iowa	New York
Arizona	Maryland	Oregon
California	Michigan	Pennsylvania
Colorado		Vermont

Suspension Of Dealer Licenses

The focal point of any defect recall campaign is the dealer since correction of defects cited in a defect recall notice usually will be performed by an authorized dealership. For a state to control all aspects of a defect recall campaign at the state level, it would be desirable for a state to monitor and control dealership activities to ensure compliance. Though there are no state laws that regulate dealers as to defect recall campaigns, 13 states have enacted laws requiring dealers to comply with whatever rules and regulations are issued by the motor vehicle administrator. Dealers would thus be subject to regulations on

defect recall campaigns. A dealer's failure to comply with such regulations could lead to a suspension of his license to operate a dealership. The 13 states are:

Arkansas	Maine	Mississippi	Utah
Connecticut	Maryland	Oklahoma	Vermont
Indiana	Minnesota	Rhode Island	Washington
Iowa			

Authority To Enter Contracts

Another way for a state to become involved in a defect recall campaign would be to enter a contract with the manufacturer of the defective vehicle. The state would notify owners and encourage them to have the defect corrected. The state would spend public funds for this program but would be reimbursed by the manufacturer. In addition, the manufacturer would supervise correction of any defect by its dealers. Though the state would, in effect, be assisting the manufacturer in fulfilling its moral and legal obligation, the state also would be performing an important governmental function by reducing accidents, injuries and deaths.

Similarly, a state could become involved in a defect recall campaign by entering an agreement with the National Highway Traffic Safety Administration. Using funds provided by the Administration, the state would notify owners and encourage them to have their vehicles repaired.

Does a state have the authority to enter into agreements of this type? The answer is yes.

Generally, in the absence of any constitutional or statutory limitation, a state has the power to make contracts. The power to enter into contracts to advance its proprietary or governmental interest is absolute and unqualified. A state may set aside its sovereignty and like a private individual or corporation enter into agreements with other governmental entities or with individuals or corporations, and be bound accordingly as a private person would be bound under a similar contract. Under such a contract, a state is held to the same rules and principles of construction and application of contract provisions as govern private persons and corporations in contracting with each other.

A state contract must ordinarily rest upon some legislative enactment and in this respect is distinguishable from contracts

between individuals. Generally, the legislature delegates contracting authority to the appropriate executive agency which derives its authority from either the legislation creating the agency, the state constitution or legislation relevant to a particular subject matter. The legislature, although it cannot impair the obligation of the contract, has the ability to avoid payment of the obligations of the state by a failure or refusal to make the necessary appropriation, and creditors accepting obligations of the state are bound to know that they cannot enforce their claims against the state directly when no appropriation has been made for their payment. Unless there is an appropriation, courts are powerless to enforce a contract of a state, even though there is no doubt as to its validity.

While each jurisdiction has general contracting authority permitting state agencies to enter into agreements, six states set forth in their vehicle codes contracting authority specifically related to the transportation area. The six states are:

Arizona	Hawaii	Oregon
Connecticut	New Jersey	Utah

Arizona -- Contracting authority is limited to securing the full benefits available to the state for transportation purposes under state law.

Connecticut -- Commissioner is provided with the authority to contract for the services, programs, and facilities needed to meet his responsibilities for the administration of the vehicle code.

Hawaii -- The governor is given the authority to contract and do all things necessary to promote traffic safety. The governor's duties and functions may be delegated to the state highway safety coordinator.

New Jersey -- The commissioner is required to execute all contracts entered into by the department and approve the disbursement of all moneys.

Oregon -- If grants, contributions or other money are available to the state, the state may enter into a contract for any program concerning the operation of motor vehicles upon the highways.

Utah -- The governor may enter into any contract in order to secure full benefits under federal law.

Of the six states, Arizona, Oregon and Utah restrict the contracting authority to federal funds available to the state for highway purposes.

Liability Of State For Breach Of Contract

Assuming that a state has the authority to contract with a manufacturer or the National Highway Traffic Safety Administration, what liability, if any, would inure to the state if it failed to perform its obligations under the contract? For example, if a state fails to notify an owner of a vehicle subject to a defect recall and that vehicle is subsequently involved in a crash due in substantial part to the defect, is there any liability on the state for the nonperformance of its duties?

The line of demarcation between liability and no liability to a third person not a party to the contract has been drawn by the courts between the nonperformance of any action or duty required under the contract and the negligent performance of the required action or duty. Failure to perform an act would not lead to the imposition of liability whereas liability would most likely be imposed in a situation where a duty has been assumed by contract.

For example, in a situation involving three people -- A, B, and C, if A contracted to accept employment with B, in work which would affect the safety of C, and then entirely failed to appear for work and never entered upon the employment, A may be held liable to B for breach of contract, but there would be no liability to C.

Additionally, there have been a large number of cases holding that a company which contracts with a city to supply water to the public is not liable to a private citizen when the service fails at a critical moment and a house is destroyed by fire as a result. If, however, water that was supplied was contaminated, there would be no difficulty in finding liability for this negligent act. Therefore, where there has been only complete nonperformance of the contract, without even an initial action, liability has been denied.

Liability has been found where there was some act performed in such a way as to conclude that a duty was assumed by the conduct of that act. Liability then arises wherever the act has been negligently performed.

Thus, in the hypothetical situation involving a contract between a state and a manufacturer in which the state agreed to notify the owners of vehicles affected by a defect recall notice, the state would most likely not be held liable for damages resulting from a crash caused by the defect in question, if the state took no actions at all in notifying the owners. However, if the state undertook to notify the owners and, because of its negligent operations, the owner of the vehicle involved in the crash was not notified, then it is conceivable that, under present law, liability could be imposed upon the state.

Aside from the liability question, the question of immunity should briefly be addressed. For many years it has been an established principle of law that the state, as a sovereign, could not be sued in its own courts or in any other court without its consent and permission. Until a state abrogated its privilege of immunity by waiver, no individual could maintain a lawsuit against the state, regardless of the merits.

This principle of law has been modified somewhat in some states where the courts have separated the business or proprietary enterprises of government from the purely governmental functions and have held that a state can be held liable for engaging in an industrial or business enterprise. Other state courts have clearly rejected this test for determining state liability, taking the view that a state, from its very nature, can act only in a sovereign, governmental capacity and is therefore always immune from liability in the absence of a waiver of the immunity. All authority possessed by a state is that conferred on it as a sovereign and the state can act in no other capacity.

If a state constitution contains an immunity clause, the legislature will have no power to circumvent this provision by passing a law providing for a waiver or consent to a lawsuit. Without a constitutional restriction, however, a state has the discretion to waive the privilege of immunity and consent to be sued. Consent may result from the enactment of a statute if it has not already been authorized in the state constitution. It should be remembered that the waiver of immunity does not concede liability in favor of the claimant nor does it recreate a cause of action that did not previously exist.

CONCLUSION AND OBSERVATIONS

If a vehicle is considered to be mechanically unfit or unsafe to be operated or moved upon the highways because of a defect cited in a defect recall notice, there are state laws that provide the authority to require owner compliance. The threatened loss of registration can be an effective weapon to use against an uncaring, indifferent owner.

The key, of course, is whether a defect cited in a defect recall notice places a vehicle in the unfit or unsafe category until correction is made. Unfortunately, no case law has been uncovered that would shed some light on how a court of law would define the phrase "mechanically unfit or unsafe to be operated or moved upon the highways." To be most effective in aiding recall compliance, the state registration laws or regulations should be amended to clearly define this phrase as including defects cited in a recall campaign.

Detection of defects can be accomplished through the mechanism of a state's inspection program that utilizes police officers, transportation officials, and inspection stations to uncover the defects cited in a recall notice. States maintaining a periodic inspection program could most effectively provide procedures for the detection and correction of the defects. Failure to do so could lead to suspension of registration.

There is also some authority in the dealer licensing area for a state to effectively control a defect recall campaign by requiring dealers to coordinate their activities with the state or face possible suspension or revocation of their license to operate a dealership.

In most states, using a vehicle that is so unsafe as to endanger any person is a crime. A majority of states also proscribe the operation of a vehicle unless it is in good working order or in such safe mechanical condition as to not endanger any person. If a particular safety defect makes a vehicle so unsafe as to endanger any person, these state laws could be powerful weapons for use against owners who do not have their vehicles repaired. Needless to say, there would be enforcement problems and, to be effective, their enforcement could involve substantial time and money.

State agencies have the authority to enter into agreements for the advancement of its proprietary or governmental interest provided this authority is derived from a legislative enactment or the state constitution. This authority, if properly granted or delegated, is unqualified and absolute. Like a private individual, a state agency may contract with individuals, partnerships or corporations of the private sector or with other governmental entities and be held to the same rules and principles of the laws of contracts.

Most likely there would not be state liability to third parties who are injured as a result of the state's failure to perform its contract obligations in a defect recall campaign. Resolving a hypothetical question with a definitive answer based on judicial decision is almost an impossibility because each court case ultimately depends on the facts of that case. However, a general review of the court decisions in this area would be supportive of an answer of no liability.

Finally, there is authority for states to disseminate information to the public as to defect recall campaigns since several states provide the public with traffic law digests and point system pamphlets to alert their citizens as to current changes in the law.

It should be unlawful to operate a vehicle that is unsafe under the laws of all 50 states and departments of motor vehicles should have authority to suspend the registration of any such vehicle. Provisions in the Uniform Vehicle Code on this subject should be reexamined to assure their adequacy and the development of a model law should be considered. Following these efforts, each state should study its own laws and adopt any necessary amendments.

FOOTNOTES

1/ The condition of the vehicle must first be determined by a peace officer or other member of the department.

2/ Massachusetts also provides its registrar with discretionary authority to suspend or revoke registration if continuing operation of the vehicle would constitute an immediate threat to the public safety.

3/ A footnote to UVC § 13-104(a) provides as follows:

> It is recommended that the commissioner specify the items of equipment to be inspected that will be appropriate for different types or categories of vehicles. For most motor vehicles, these items should include at least the brakes, lights, reflectors, steering, glazing, mirrors, exhaust systems, windshield wipers, tires and vehicle emission control systems. The items specified for all types of vehicles should also reflect equipment required under state laws comparable to chapter 12 of the Code, equipment required on vehicles made after January 1, 1968 under the National Traffic and Motor Vehicle Safety Act, and equipment recommended for inspection under the Highway Safety Act.

4/ In Washington, the legislature has authorized the Chief of the Washington State Patrol to establish and maintain a periodic safety inspection program. There is no indication as to whether this type of inspection program has been adopted.

5/ In Alaska, the legislature has directed the commissioner of motor vehicles to adopt regulations for the inspection of vehicles and for the removal of vehicles from the areas of public use when found to be in a defective or unsafe condition. There is no indication as to whether Alaska has provided for the periodic inspection of motor vehicles.

6/ UVC § 13-104(e) (1968) states specifically:

> (e) The commissioner may suspend or revoke the registration of any vehicle which he determines is mechanically unfit or unsafe to be operated or moved upon the highways, or which after notice and demand is not equipped as required in this act or for which a required certificate has not been obtained.

It is interesting to note that UVC §§ 13-104(e) and 3-704(2) both provide for the suspension or revocation of registration of a vehicle that "is mechanically unfit or unsafe to be operated or moved upon the highways."

7/ UVC § 12-101(a) provides:

(a) It is a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter or in regulations issued by the department, or which is equipped in any manner in violation of this chapter or those regulations or for any person to do any act forbidden or fail to perform any act required under this chapter or those regulations.

8/ UVC § 13-101 states:

§ 13-101 -- Vehicles without required equipment or in unsafe condition

No person shall drive or move on any highway any motor vehicle, trailer, semitrailer or pole trailer, or any combination thereof, unless the equipment upon any and every said vehicle is in good working order and adjustment as required in this act and unless the vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person or property.

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